

allegations about billing raised in this record warrant a finding of checklist noncompliance.<sup>276</sup> In making this finding, we are mindful of our precedent, which makes clear that the checklist does not require perfect billing systems or other supporting processes. It is inevitable, particularly considering the complexity of billing systems and volume of transactions handled in Michigan, that there will be errors and carrier-to-carrier disputes. The question before us is whether Michigan Bell's processes are adequate to ensure that competitors have a meaningful opportunity to enter the market and pose a competitive alternative to Michigan Bell. We find that Michigan Bell's billing processes do provide competitors such an opportunity. We begin our analysis with an overview of Michigan Bell's wholesale billing systems and processes, and then address the specific areas of concern raised by commenters.

89. Michigan Bell uses two primary billing systems to deliver wholesale bills to competitive carriers. For competitive LECs that are reselling services, Michigan Bell uses the Resale Billing System (RBS). RBS extracts information from Michigan Bell's Ameritech Customer Information System (ACIS) provisioning database, which is the same system Michigan Bell uses for its retail customers.<sup>277</sup> For competitive carriers that purchase UNE and interconnection products such as loops, switch ports, loop and port combinations, local transport, and interconnection, Michigan Bell uses the Carrier Access Billing System (CABS).<sup>278</sup> In order to improve wholesale billing of UNE-P, Michigan Bell migrated its billing of UNE-P switch ports from RBS to CABS beginning on August 18, 2001.<sup>279</sup> Michigan Bell states that it completed this conversion process and consolidated billing for UNE-P charges into CABS in October 2001.<sup>280</sup>

90. Michigan Bell provides adequate evidence to demonstrate that competitive carriers have sufficient access to its billing systems to allow such carriers a meaningful opportunity to compete. This evidence includes commercial performance, third-party testing, and internal billing processes and procedures. Michigan Bell generally met the relevant parity and benchmark standards regarding the timeliness and accuracy of its wholesale billing.<sup>281</sup>

<sup>276</sup> As the D.C. Circuit recently held, weighing conflicting evidence is "a matter peculiarly within the province of the Commission." *Z-Tel Communications, Inc. v. FCC*, No. 01-1461, slip op. at 17 (D.C. Cir. July 1, 2003).

<sup>277</sup> Michigan Bell Application, App. A, Tab 12, Affidavit of Michael E. Flynn at paras. 4-5 (Michigan Bell Flynn Aff.).

<sup>278</sup> *Id.* at para. 6.

<sup>279</sup> Michigan Bell Reply, App. A, Reply Affidavit of Justin W. Brown, Mark J. Cottrell and Michael E. Flynn (Michigan Bell Brown/Cottrell/Flynn Reply Aff.) at para. 19; Michigan Bell Application, App. H, Accessible Letter CLECAM01-236 (Aug. 18, 2001). Michigan Bell states that prior to the conversion, UNE-P switch port charges were billed out of RBS, while UNE-P loop charges were billed out of CABS. Michigan Bell Brown/Cottrell/Flynn Reply Aff. at n.14; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 26.

<sup>280</sup> Michigan Bell Flynn Aff. at para. 6; *see also* Michigan Bell Brown/Cottrell/Flynn Reply Aff. at para. 17; Michigan Bell Supplemental Application, App. A, Tab 2, Supplemental Affidavit of Justin W. Brown, Mark J. Cottrell and Michael E. Flynn (Michigan Bell Brown/Cottrell/Flynn Supplemental Aff.) at paras. 25-27.

<sup>281</sup> *See* PM 14 (Billing Accuracy); PM 15 (% Accurate & Complete Formatted Mechanized Bills); PM 17 (Billing Completeness); PM 18 (Billing Timeliness (Wholesale Bill)). We reject AT&T's challenges to the reliability of (continued....)

Michigan Bell also satisfied 100 percent of BearingPoint's tests of its wholesale billing systems and processes.<sup>282</sup>

91. In addition, Michigan Bell explains that the mechanized processing of service orders is unlikely to lead to database errors.<sup>283</sup> In 2002, Michigan Bell reviewed its ACIS provisioning database, used to update the billing records in CABS, in preparation for its implementation of its "line in service" report, which provides competitive carriers with a list of the lines they currently serve according to Michigan Bell provisioning records.<sup>284</sup> Errors were found in only approximately 0.05 percent of the records reviewed, and any identified errors were fixed.<sup>285</sup> Michigan Bell states that approximately 90% of all orders flow through mechanically, and that processes are in place to identify and correct errors in manual processing.<sup>286</sup> Further, Michigan Bell's Quality Review Process involves the daily review of a sample of manually

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Michigan Bell's billing data. AT&T Supplemental Reply at 42-46. As discussed above, we find that we may rely on these data. *See supra*, Part IV.A. We likewise reject commenters' claims that Michigan Bell's performance measurements are inadequate to demonstrate Michigan Bell's billing accuracy. *See, e.g.*, TDS Metrocom Comments at 25-26; Supplemental Comments of AT&T Corp., WC Docket No. 03-16 at 13 (filed Apr. 9, 2003) (AT&T April 9 Comments); Letter from Ross A. Buntrock, Counsel for Sage, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. at 6 (filed July 18, 2003) (Sage July 18 *Ex Parte* Letter). Michigan Bell states that its performance metrics resulted from extensive collaborative proceedings and measure important aspects of its billing systems, and that parties are discussing refinements and supplements to these metrics in ongoing billing metric collaboratives. Michigan Bell Ehr Reply Aff. at paras. 151-54; Michigan Bell Ehr Supplemental Aff. at paras. 183-87; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 148. While the Commission looks first to commercial performance when evaluating compliance with the requirements of section 271, our review is not limited solely to commercial performance demonstrated through billing metrics. We agree with the Department of Justice that Michigan Bell's "performance metrics have limited utility in catching a wide range of potential billing errors." Department of Justice Supplemental Evaluation at 9 n.44. We find, however, as discussed below, that the totality of Michigan Bell's evidence is sufficient to demonstrate adequate wholesale billing performance. Moreover, we note that additional measures will soon be in place as a result of the ongoing billing metrics collaborative operating under the oversight of the Michigan Commission. In particular, the collaborative is considering changes to PM 17 (Billing Completeness) and the adoption of new metrics addressing billing dispute resolution, billing rate table updates and accuracy, and the overall accuracy of Michigan Bell's bills. Michigan Bell Ehr Supplemental Aff. at paras. 183-87.

<sup>282</sup> BearingPoint found that Michigan Bell met the relevant benchmarks regarding the accuracy of its wholesale bills, the timeliness of delivering its wholesale bills, and the timeliness of posting resale and UNE-loop service order activity to the billing systems. *See* Michigan Bell Supplemental Application, App. C, Tab 15, BearingPoint Michigan Bell OSS Evaluation Project Report. Final Results Update, at 6 (Apr. 30, 2003) (BearingPoint Michigan Final Report); Michigan Bell Application, App. C, Tab 114, BearingPoint OSS Evaluation Report at 998-1011 (Oct. 30, 2002) (BearingPoint Michigan Interim Report); *see also* Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 7-24.

<sup>283</sup> Michigan Bell Supplemental Reply, App., Tab 2, Supplemental Reply Affidavit of Justin W. Brown, Mark J. Cottrell and Michael E. Flynn (Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff.) at paras. 48-52.

<sup>284</sup> *Id.* at paras. 43-44.

<sup>285</sup> *Id.*

<sup>286</sup> *Id.* at paras. 49-56; *see also* PM 13 (Order Process % Flow Through); PM 13.1 (Total Order Process % Flow Through). This avoids any risk of error associated with the manual handling of orders.

handled service orders during which Michigan Bell personnel conduct a field-by-field comparison with the competitive LEC local service request (LSR).<sup>287</sup> Michigan Bell creates Service Order Quality Assurance Reports that track errors and corrections in data for particular LSR fields, as well.<sup>288</sup> In each bill period, Michigan Bell reviews the CABS Bill Data Tapes for format, completeness, and accuracy.<sup>289</sup> The CABS control system automatically tracks monthly access charges, usage charges, a category of charges called "other charges & credits," and total bill amounts, and generates warnings if there are significant discrepancies between two months.<sup>290</sup>

92. Michigan Bell also has processes in place to ensure that rate changes are implemented in a timely and accurate manner.<sup>291</sup> BearingPoint testing verified Michigan Bell's timely and accurate posting of rate table updates.<sup>292</sup> Michigan Bell routinely audits the rates for a sample of the most commonly ordered products on a monthly basis to ensure that the correct rates are being applied.<sup>293</sup> Even though Michigan Bell recently identified errors in certain loop zone rates in its rate tables and in its classification of business and residential loops,<sup>294</sup> by June 2003, Michigan Bell had corrected these errors, as validated by E&Y.<sup>295</sup>

93. Michigan Bell shows that it provides auditable bills and offers effective procedures to resolve wholesale billing disputes. Michigan Bell provides wholesale bills in industry standard BOS/BDT format, for which substantial training and documentation is available to competitive LECs.<sup>296</sup> The bills also provide sufficient detail, including the universal service order code (USOC) for the particular charge and a description of the product or service, to allow competing carriers to audit the bills and identify any disputed charges.<sup>297</sup> Michigan Bell explains that its CLEC Handbook establishes the procedures by which the local service center

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<sup>287</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 54. The LSR is submitted by competitive LECs to order products or services from Michigan Bell.

<sup>288</sup> *Id.* at para. 55.

<sup>289</sup> *Id.* at para. 63.

<sup>290</sup> *Id.* at para. 64.

<sup>291</sup> Michigan Bell Brown/Cottrell/Flynn Reply Aff. at paras. 25-30; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 73-76.

<sup>292</sup> Michigan Bell Brown/Cottrell/Flynn Reply Aff. at para. 31.

<sup>293</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 62.

<sup>294</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 80-108.

<sup>295</sup> *Id.* at paras. 83, 85, 86, 93-100, 106-08. Specifically, these problems were corrected by Michigan Bell and validated by E&Y during March through June 2003. *Id.*

<sup>296</sup> Michigan Bell Brown/Cottrell/Flynn Reply Aff. at paras. 9-11.

<sup>297</sup> *Id.* at para. 10. A USOC is a code associated with a particular Michigan Bell product or service.

(LSC) addresses such billing disputes.<sup>298</sup> The LSC is tasked with reaching a final resolution of claims within 30 days.<sup>299</sup> Attainment of the 30-day target is monitored on a case-by-case basis by LSC managers and by the LSC management team as part of a Quality Review Process.<sup>300</sup> Michigan Bell policy specifies that any denials of competitive LEC claims are provided to the competitive LEC via e-mail and include a description of the reasons for denial, including citations to documents or resources used by Michigan Bell to make its determination.<sup>301</sup> The Michigan Commission also approved a billing compliance plan, pursuant to which Michigan Bell revised the documentation for use by its LSC employees in resolving claims, and is engaged in an ongoing dialog with competitive LECs to address billing dispute resolution issues through a sub-committee of the CLEC User Forum.<sup>302</sup> Michigan Bell states that it has resolved 32 of the 56 billing issues raised since the creation of the billing sub-committee on February 19, 2003.<sup>303</sup>

94. Michigan Bell also provides evidence that it has resolved the UNE-P billing records mismatch responsible for inaccurate wholesale bills throughout 2002 and January 2003. In January 2003, Michigan Bell informed competitive LECs that problems related to the late-2001 conversion of UNE-P bills from the RBS to the CABS wholesale billing format resulted in a mismatch between Michigan Bell's provisioning database and its billing database.<sup>304</sup> Michigan Bell explains that the UNE-P records mismatch resulted from a series of systems and human errors. When service order activity was held during the migration to CABS in August-October 2001, this created an unexpectedly large backlog of service order activity that required posting to CABS.<sup>305</sup> An associated OSS software problem affected mechanized efforts to post both the held

<sup>298</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 115-17.

<sup>299</sup> *Id.* at para. 116.

<sup>300</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 77.

<sup>301</sup> *Id.* at para. 79.

<sup>302</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 118-19 (citing plan approved by the Michigan Commission on March 26, 2003); Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. *Bill Auditability and Dispute Resolution Plan* at 1 (filed Aug. 1, 2003) (Michigan Bell August 1 *Ex Parte* Letter) (providing the Michigan Commission with a status report on its implementation of the compliance plan).

<sup>303</sup> Michigan Bell August 1 *Ex Parte* Letter, Attach. *Bill Auditability and Dispute Resolution Plan* at 1. We reject TDS Metrocom's contention that Michigan Bell's application cannot be granted unless a billing collaborative is established in Michigan. TDS Metrocom Supplemental Comments at 19-20. As Michigan Bell points out, a billing collaborative is not required to demonstrate checklist compliance. Michigan Bell Supplemental Reply, App., Tab 7, Supplemental Reply Affidavit of Robin M. Gleason (Michigan Bell Gleason Supplemental Reply Aff.) at paras. 9-16.

<sup>304</sup> AT&T Reply, Joint Reply Declaration of Sarah DeYoung and Shannie Marin at para. 24 (AT&T DeYoung/Marin Reply Decl.).

<sup>305</sup> Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16 at 1-3 (filed April 3, 2002) (Michigan Bell April 3 *Ex Parte* Letter).

backlog of service orders and new UNE-P orders from November 2001 to late spring 2002.<sup>306</sup> This resulted in a low flow-through rate for the mechanized posting to CABS of service order activity, with many orders falling out for manual handling.<sup>307</sup> During Michigan Bell's efforts to manually post these orders to CABS, its service representatives posted some service order activity in the incorrect sequence, leading to mismatches between the billing and provisioning records.<sup>308</sup> Michigan Bell also states that the OSS software problem directly caused data errors in CABS.<sup>309</sup>

95. Michigan Bell reconciled CABS with the ACIS provisioning database between January 2003 and March 2003 and found that the billing error had affected approximately 138,000 UNE-P circuits, resulting in at least \$16.9 million in incorrect billings.<sup>310</sup> Michigan Bell states that nearly all of the \$16.9 million in debits and credits appeared on wholesale bills in February 2003.<sup>311</sup> E&Y has verified that Michigan Bell properly performed the reconciliation of the ACIS and CABS databases and correctly provided competitive LECs with appropriate debits and credits.<sup>312</sup>

96. Michigan Bell also argues that it has taken steps to ensure that the records mismatch will not recur. Michigan Bell states that the large backlog of held service order activity was a consequence of the CABS conversion.<sup>313</sup> Michigan Bell also claims that by June

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<sup>306</sup> *Id.* at 3; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 27-31.

<sup>307</sup> *Id.*

<sup>308</sup> Michigan Bell April 3 *Ex Parte* Letter at 3-4; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 32.

<sup>309</sup> Michigan Bell April 3 *Ex Parte* Letter at 2; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 31.

<sup>310</sup> Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16, Attach. B at 2 (filed Feb. 19, 2003) (Michigan Bell February 19 *Ex Parte* Letter).

<sup>311</sup> Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16, Attach. D at 2 (filed Mar. 28, 2003) (Michigan Bell March 28 *Ex Parte* Letter).

<sup>312</sup> Michigan Bell Supplemental Application, App. A, Tab 7, Affidavit of Brian Horst (Michigan Bell Horst Supplemental Aff.) Attach. A at 1, Attach B at 4-8; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 41-64. Commenters note that the E&Y audit does not purport to have evaluated every aspect of Michigan Bell's billing systems. *See, e.g.*, AT&T Supplemental Comments at 33-34; MCI Supplemental Comments at 8-9; TDS Metrocom July 30 *Ex Parte* Letter at 4-5. However, we find, and no commenter disagrees, that we may rely on the audits with respect to those issues that they do address. We further find that AT&T's concerns about use of proprietary information in E&Y's billing audit do not warrant a finding of checklist noncompliance. AT&T argues that Michigan Bell disclosed AT&T's proprietary information to E&Y for purposes of this audit, in violation of the parties' interconnection agreement. AT&T Supplemental Reply, Joint Reply Declaration of Sarah DeYoung and Shannie Tavares (AT&T DeYoung/Tavares Supplemental Reply Decl.) at para. 8. AT&T's complaint, however, does not allege a systemic problem with Michigan Bell's systems. We note that this concern is more properly raised with this Commission or the Michigan Commission, as appropriate.

<sup>313</sup> Michigan Bell April 3 *Ex Parte* Letter at 1-3.

2002 it fixed the OSS software problems that led to low flow-through rates and CABS records errors.<sup>314</sup> In support of this assertion, Michigan Bell provides internal data showing improved flow-through of mechanized postings to CABS. This internal data shows that mechanized flow-through of service order activity to CABS improved from 71 percent in December 2001 to 93 percent by the end of July 2002, and to 94 percent by July 2003.<sup>315</sup> E&Y has validated both the underlying data used by Michigan Bell and the calculations used to determine these flow-through percentages.<sup>316</sup>

97. Other evidence further supports Michigan Bell's assertion that it has corrected the underlying problems that led to the records mismatch. Michigan Bell demonstrates that its service representatives are now better trained and equipped, reducing the possibility that manual posting of service order activity will lead to errors.<sup>317</sup> Following the reconciliation, E&Y audited a statistically valid sample of Michigan Bell's UNE-P circuit records in ACIS and CABS and found that more than 99 percent of the records matched as of April 23, 2003.<sup>318</sup> Because approximately 46 percent of the circuits E&Y tested had service order activity between the reconciliation and April 23, 2003, the 99 percent records match demonstrates that the service order activity correctly posted to CABS.<sup>319</sup>

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<sup>314</sup> *Id.* at 4-5; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 33-34.

<sup>315</sup> Michigan Bell April 3 *Ex Parte* Letter at 5; Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. 2 (filed Aug. 14, 2003) (Michigan Bell August 14 *Ex Parte* Letter).

<sup>316</sup> Michigan Bell Horst Supplemental Aff., Attach. A at 1; Attach. B at 9.

<sup>317</sup> Michigan Bell April 3 *Ex Parte* Letter at 4; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 35-39.

<sup>318</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 65; Michigan Bell Horst Supplemental Aff., Attach. B at 11-12.

<sup>319</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 66; Michigan Bell Horst Supplemental Aff., Attach. C at 30-31. In addition, August and September 2002, BearingPoint successfully tested SBC Midwest billing systems in Illinois, Indiana, and Wisconsin following the remediation of the billing OSS software problems and shortcomings in manual handling of service order activity. Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 21-23; Michigan Bell Supplemental Application, App. C, Tab 21, BearingPoint Illinois Bell OSS Evaluation Project Report, at 9 (May 1, 2003); Michigan Bell Supplemental Application, App. C, Tab 25; BearingPoint Indiana Bell Interim OSS and Performance Measurement Status Report, at 10 (May 12, 2003); Michigan Bell Supplemental Application, App. C, Tab 27, BearingPoint Wisconsin Bell OSS Evaluation Project Interim Report, at 10 (Jan. 15, 2003). We find that we can rely on this testing as further evidence that the underlying problems were resolved because Michigan Bell's billing systems are the same those used throughout the SBC Midwest region. BearingPoint Michigan Final Report at 22-24. Although BearingPoint noted that it had "not validated all aspects" of the assertion that SBC Midwest's billing systems are regional, it stated that "its experience is consistent with that assertion." BearingPoint Michigan Final Report at 22-24, 815-16. The Michigan Commission likewise concluded that the results of BearingPoint testing from Illinois, Indiana, and Michigan could be used in evaluating Michigan Bell's billing performance in Michigan. Letter from Chairman Laura Chapelle, *et al.*, Michigan Commission, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16, Attach. at 3 (filed Mar. 24, 2003) (Michigan Commission March 24 *Ex Parte* Letter). We rely on the conclusions of (continued....)

98. We conclude, as did the Michigan Commission,<sup>320</sup> that Michigan Bell satisfies its evidentiary burden of demonstrating that its wholesale bills give competitive LECs a meaningful opportunity to compete. We are persuaded that Michigan Bell has taken sufficient steps to address the billing problems it has experienced, and that the remaining issues identified by competitive LECs are isolated rather than systemic problems. Specifically, Michigan Bell has addressed isolated billing errors as they have arisen, and has implemented processes to ensure that its underlying databases, and the resulting wholesale bills, are accurate. Michigan Bell further shows that many of competitive LECs' concerns relate to small numbers of errors due to manual processing. As discussed in detail below, we reject commenters' concerns that the evidence in the record demonstrates a systemic problem with Michigan Bell's billing systems. Specifically, commenters' contentions are centered around four major issues: (1) apparent mismatches between competitive LECs' wholesale bills and their internal records, (2) complaints regarding Michigan Bell's wholesale billing processes and procedures, (3) concerns about the UNE-P data reconciliation, and (4) a variety of other specific problems with Michigan Bell's wholesale bills. We address each of these in turn below.

99. *Records Mismatches.* We reject AT&T's argument that the apparent mismatches between the customers for which Michigan Bell bills AT&T and the customers that AT&T acknowledges are its customers based on internal records warrants a finding of checklist noncompliance.<sup>321</sup> AT&T reviewed its March bill and identified approximately 1,900 instances where it either received bills for customers that its records indicated were not AT&T customers, or failed to receive bills for AT&T customers.<sup>322</sup> Most of these mismatches remained on AT&T's May bill.<sup>323</sup> Michigan Bell shows that approximately 75 percent of the 1,900 mismatches identified by AT&T actually were due to "record-keeping errors" by AT&T.<sup>324</sup>

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BearingPoint and the Michigan Commission in concluding that Michigan Bell's billing systems are regional in nature.

<sup>320</sup> Michigan Commission Comments at 73-74; Michigan Commission Supplemental Comments at 7-9.

<sup>321</sup> BullsEye Telecom also generally references experiencing similar mismatches, but does not provide detail or supporting evidence. Letter from Leland R. Rosier, Counsel for CLECA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. at 1 (filed July 14, 2003) (CLECA July 14 *Ex Parte* Letter). We therefore conclude that its allegations do not warrant a finding of checklist noncompliance.

<sup>322</sup> AT&T DeYoung/Tavares Supplemental Decl. at paras. 7-12.

<sup>323</sup> *Id.* at para. 12.

<sup>324</sup> Letter from James C. Smith, Senior Vice President, SBC Telecommunications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138 at 2 (filed July 28, 2003) (Michigan Bell July 28 *Ex Parte* Letter); Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at paras. 25-26. AT&T argues that it is not receiving usage data from Michigan Bell for some of these numbers, demonstrating that the telephone numbers are not actually serving AT&T customers. Letter from Jacqueline G. Cooper, Counsel for AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. at 1-5 (filed Aug. 25, 2003) (AT&T August 25 *Ex Parte* Letter). As AT&T concedes, however, Michigan Bell describes circumstances that might result in no usage for those lines. *Id.* Since AT&T does not refute Michigan (continued....)

These problems include AT&T's failure to record the actual telephone number assigned to a customer when the number originally requested was not available and AT&T's failure to update its records with a customer's new telephone numbers after issuing an order to have the customer's original telephone number changed.<sup>325</sup> Michigan Bell acknowledges that the balance of the mismatches identified by AT&T reveal a small number of errors due to mistakes in manual processing.<sup>326</sup> We are persuaded by Michigan Bell's evidence that the errors alleged by AT&T do not reveal a billing problem of significant scope. As we have stated in the past, we recognize that high-volume, carrier-to-carrier commercial billing cannot always be perfectly accurate, and we find that the limited instances of manual processing errors do not demonstrate checklist noncompliance.<sup>327</sup>

100. We likewise reject MCI's argument that similar mismatches between its customer records and the customers for which Michigan Bell bills MCI warrant a finding of checklist noncompliance. Using a test run of software that it is developing to automatically review its bills, MCI found it is being billed for 487 customers that its records indicated are not MCI

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Bell's contention that lines might not have usage in some instances, we conclude that AT&T does not demonstrate that the lack of usage on these numbers for certain months, standing alone, is evidence that they do not belong to AT&T customers, or that AT&T is being misbilled.

<sup>325</sup> Michigan Bell July 28 *Ex Parte* Letter at 2; Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at paras. 25-26. At AT&T's request, Michigan Bell performed a further review of 395 mismatched numbers that Michigan Bell attributed to AT&T record-keeping errors. AT&T August 25 *Ex Parte* Letter, Attach. at 1-5. Of the 395 numbers, Michigan Bell only concluded that 17 actually were due to Michigan Bell errors, and reiterated its conclusion that the remainder were due to AT&T record-keeping errors. *Id.* We do not find that this small adjustment alters Michigan Bell's showing that the vast majority of these mismatches are due to AT&T record-keeping errors.

<sup>326</sup> Specifically, Michigan Bell found that at most approximately 25% of AT&T's 1,900 mismatches were due to Michigan Bell problems, primarily due to manual processing. Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at paras. 25-26, 53. Further, Michigan Bell states that even if all 1,900 errors alleged by AT&T represented actual billing problems, they would affect only a very small percentage of AT&T's total lines in Michigan. *Id.* at para. 25. The Department of Justice contends that Michigan Bell "appears to call into question the attribution of all of these errors to AT&T," and cites a letter sent by Michigan Bell to AT&T discussing specific mismatches. Department of Justice 4-State Evaluation at 13 n.56. (citing a letter Michigan Bell sent to AT&T on July 25, 2003, included as a confidential attachment to the Michigan Bell July 28 *Ex Parte* Letter). We disagree that Michigan Bell's letter to AT&T "call[s] into question" Michigan Bell's record evidence on this issue. Michigan Bell July 28 *Ex Parte* Letter at 2; Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at paras. 25-26. In any event, we instead rely on Michigan Bell's affirmative statements on the record in this docket, which are made pursuant to "procedural rules requiring that parties submit accurate, reliable and truthful information." *Verizon New Jersey Order*, 17 FCC Rcd at 12316, para. 92 (citing 47 C.F.R. § 1.65).

<sup>327</sup> See *In The Matter of Application by Verizon Maryland Inc., Verizon Washington, D.C. Inc., Verizon West Virginia Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia*, WC Docket No. 02-384, Memorandum Opinion and Order, 18 FCC Rcd 5212, 5227, para. 28 (*Verizon 3-State Order*).

customers.<sup>328</sup> In addition, MCI compared the “lines in service” report it receives from Michigan Bell with its own customer records and states that it found “thousands” of lines in the report that its internal records indicate do not relate to MCI customers.<sup>329</sup> Michigan Bell states that most of the 487 mismatches identified by MCI’s software were due to erroneous LLNs sent during 2001 and 2002, which caused MCI to receive LLNs for customers that it had not actually lost.<sup>330</sup> Michigan Bell explains that these LLN problems have long since been resolved through the Michigan Commission’s LLN collaborative.<sup>331</sup> Michigan Bell states that mistakes in manual processing were responsible for the small number of remaining mismatches identified by MCI.<sup>332</sup> We find that Michigan Bell has adequately demonstrated that the vast majority of MCI’s mismatches are due to a long-resolved problem unrelated to its billing systems, and that the remaining problems demonstrate only isolated errors that are not significant in scope. Moreover, we note that MCI only recently provided these “thousands” of mismatches from its lines in service report to Michigan Bell for evaluation.<sup>333</sup> Similar to its analysis of AT&T’s mismatches, Michigan Bell determined that only approximately 25% of the 5,612 mismatches identified by MCI were attributable to Michigan Bell errors due to mistakes in manual processing.<sup>334</sup> We are persuaded by Michigan Bell’s evidence that the errors alleged by MCI also do not reveal a billing problem of competitively significant scope. Therefore, we do not find that the mismatches cited by MCI warrant a finding of checklist noncompliance.

101. *Process Concerns.* We reject competitive LECs’ general concerns about certain Michigan Bell processes related to wholesale billing. Commenters claim, without providing specific details, that Michigan Bell lacks adequate internal processes to identify billing problems or ensure the accuracy of bills.<sup>335</sup> Commenters also challenge Michigan Bell’s dispute resolution process, arguing that it can take several months – or more – for disputes to be resolved. Such delays tie up revenues if the carriers’ interconnection agreements require them to pay the

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<sup>328</sup> MCI Supplemental Comments at 2; MCI Supplemental Comments, Declaration of Sherry Lichtenberg (MCI Lichtenberg Supplemental Decl.) at paras. 18-22; MCI Supplemental Reply, Reply Declaration of Sherry Lichtenberg (MCI Lichtenberg Supplemental Reply Decl.) at para. 4.

<sup>329</sup> MCI Supplemental Comments at 2-4; MCI Lichtenberg Supplemental Decl. at paras. 23-24.

<sup>330</sup> *Id.* at paras. 40-41, 46.

<sup>331</sup> *Id.* at paras. 41, 46. Michigan Bell notes that only three of the LLNs responsible for part of those mismatches were sent in 2003.

<sup>332</sup> Specifically, Michigan Bell found that manual processing errors could be responsible for a number of the few MCI mismatches not attributable to past LLN problems. Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at paras. 25-26, 53.

<sup>333</sup> Letter from Keith L. Seat, Senior Counsel-Federal Advocacy, MCI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138 at 6-7 (filed Sept. 8, 2003) (MCI September 8 *Ex Parte* Letter).

<sup>334</sup> *Id.*

<sup>335</sup> TDS Metrocom Supplemental Comments at 12.

disputed amounts or place them in escrow while the disputes are pending.<sup>336</sup> In addition, commenters claim that Michigan Bell provides insufficient explanation of its billing adjustments or its reasons for denying a dispute.<sup>337</sup> TDS Metrocom further asserts, based on a dispute regarding improper charges for joint SONET facilities, that even when Michigan Bell acknowledges an error, it is sometimes slow to fix the underlying problems and issue proper credits.<sup>338</sup>

102. Michigan Bell responds to the general process concerns by describing the extensive processes and procedures it has in place to identify and correct errors and resolve billing disputes, as discussed in greater detail above.<sup>339</sup> Based on the evidence in the record as a whole, we find that Michigan Bell has adequately provided accurate bills and sought to resolve outstanding disputes. Regarding TDS Metrocom's joint SONET billing dispute, Michigan Bell states that in October 2002 it corrected the system problem that led to the erroneous billing, and provided the vast majority of credits to TDS Metrocom by May 2003.<sup>340</sup> We find that the specific dispute raised by TDS Metrocom is being resolved by Michigan Bell on a business-to-business basis. In the absence of other specific evidence that shows a systemic flaw in Michigan Bell's wholesale billing processes, we do not find these concerns to be unusual given the tremendous amount of competitive activity in this state. Accordingly, we find that Michigan Bell has not denied competing carriers a meaningful opportunity to compete. To the extent that any of these carriers wish to pursue a specific claim, they may raise their concerns with this Commission or the Michigan Commission, as appropriate.

103. We also reject commenters' claims that Michigan Bell does not provide auditable wholesale bills. Commenters argue that the format of Michigan Bell's bills and the limited information included on the bills makes them difficult to audit.<sup>341</sup> Michigan Bell responds that it provides wholesale bills in industry standard BOS/BDT format, for which substantial training and documentation is available.<sup>342</sup> Michigan Bell states that the bills also provide significant

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<sup>336</sup> MCI Supplemental Comments at 6-8; NALA Supplemental Comments at 7; TDS Metrocom Supplemental Comments at 15; Letter from Leland R. Rosier, Counsel for CLECA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. (filed July 14, 2003) (CLECA July 14 *Ex Parte* Letter).

<sup>337</sup> AT&T Supplemental Reply at 25; AT&T DeYoung/Tavares Supplemental Reply Decl. at para. 15; MCI Supplemental Comments at 6-7; TDS Metrocom Supplemental Comments at 15; NALA Supplemental Comments at 7; CLECA July 14 *Ex Parte* Letter, Attach.

<sup>338</sup> TDS Metrocom Supplemental Comments at 11.

<sup>339</sup> *See supra* paras. 90-93.

<sup>340</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 95. Michigan Bell notes, however, that since that time TDS Metrocom has identified one additional SONET node that was misbilled, and for which Michigan Bell will provide proper credits. *Id.*

<sup>341</sup> AT&T DeYoung/Tavares Supplemental Reply Decl. at para. 15; MCI Lichtenberg Supplemental Decl. at paras. 39-40; TDS Metrocom Cox Supplemental Aff. at para. 21; TDS Metrocom Reply at 5.

<sup>342</sup> Michigan Bell Brown/Cottrell/Flynn Reply Aff. at paras. 9-11.

detail, including the USOC for the particular charge and a description of the product or service.<sup>343</sup> Further, BearingPoint verified that Michigan Bell's bills are auditable, and Michigan Bell satisfied the relevant performance standards for providing complete and properly formatted electronic bills.<sup>344</sup> We previously have found such evidence sufficient to demonstrate the auditability of wholesale bills,<sup>345</sup> and again conclude that Michigan Bell's provision of bills in industry standard format with a level of detail that BearingPoint verified as auditable is adequate to provide competitors a meaningful opportunity to compete. In addition, as noted above, the Michigan Commission also approved a compliance plan regarding billing auditability, pursuant to which Michigan Bell provides additional training to competing carriers, and is engaged in ongoing discussions in the CLEC User Forum to address bill auditability issues.<sup>346</sup>

104. *Reconciliation-Related Issues.* We also conclude that Michigan Bell has adequately remedied the ACIS/CABS records mismatch problem, described above, and taken steps to ensure that such problems will not recur. Specifically, Michigan Bell demonstrates that it corrected the UNE-P records mismatch as well as the underlying problems that caused the errors.<sup>347</sup> E&Y and BearingPoint testing confirmed significant aspects of these results.<sup>348</sup> In light of this significant evidence, including third-party verification that the reconciliation was performed properly and the underlying systems problems were fixed, we reject those concerns of commenters, raised in the prior proceeding, which arose due either to the lack of information available at the time or a misunderstanding of the reconciliation process.<sup>349</sup>

105. We find that Michigan Bell properly issued debits and credits for misbilled circuits corrected through the reconciliation. We reject commenters' contentions that Michigan Bell's use of data from its Common Ameritech Message Processing System (CAMPS) is

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<sup>343</sup> *Id.* at para. 10; Michigan Bell Flynn aff. at para. 17.

<sup>344</sup> Michigan Bell Brown/Cottrell/Flynn Reply Aff. at para. 12 (citing BearingPoint Michigan OSS Evaluation Project Report at 56 and TVV9-26 at 1009); PM 15 (Percent Accurate and Complete Formatted Mechanized Bills).

<sup>345</sup> See, e.g., *SBC California Order*, 17 FCC Rcd at 25650, 25697, para. 90.

<sup>346</sup> See *supra* para. 93.

<sup>347</sup> We reject AT&T's argument that the ACIS-CABS UNE-P data reconciliation is not yet complete. AT&T states that in June 2003 it received a new list of numbers that were reconciled. AT&T Supplemental Comments at 28-29. Michigan Bell responds that the billing for these telephone numbers actually was reestablished in March 2003, but these telephone numbers inadvertently were not included on the list sent to AT&T until June. Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 31. Based on Michigan Bell's showing that these numbers were reconciled well before they were provided to AT&T, we thus find that these telephone numbers do not rebut Michigan Bell's evidence that the reconciliation is complete.

<sup>348</sup> See *supra* paras. 95-96.

<sup>349</sup> See, e.g., AT&T April 9 Comments; Supplemental Comments of TDS Metrocom, WC Docket No. 03-16 (filed Apr. 9, 2003) (TDS Metrocom April 9 Comments). To the extent that commenters' concerns remained following Michigan Bell's explanations regarding the reconciliation, they are addressed below. See *infra* paras. 106-07.

inappropriate for calculating debits and credits.<sup>350</sup> Michigan Bell states that when its ACIS provisioning database is updated, that data flows through to update the CAMPS usage system.<sup>351</sup> Michigan Bell states that CAMPS retains data for a longer historical period than ACIS and that the format of CAMPS data made it easier to use for calculating debits and credits.<sup>352</sup> In a few instances, CAMPS did not contain adequate historical data to determine the actual date Michigan Bell began improperly billing a competitive LEC for a circuit.<sup>353</sup> In those instances, Michigan Bell calculated the credit using either the initial date the competitive LEC was billed for the circuit or the date of the CABS conversion, whichever was later.<sup>354</sup> We agree with Michigan Bell that it was reasonable to use CAMPS data, rather than data from the ACIS database, because CAMPS data is generated by ACIS, and is presented in a more manageable format. We further find that Michigan Bell's use of the circuit or the date of the CABS conversion when providing credits where actual data was unavailable minimized any harm to competitive LECs. Thus, we find that Michigan Bell's calculation of reconciliation-related debits was adequate for purposes of its compliance with the competitive checklist.

106. AT&T also claims that Michigan Bell misinterpreted its interconnection agreement when limiting the time period for which it issued reconciliation-related credits to AT&T, but we find that this claim does not demonstrate checklist noncompliance.<sup>355</sup> AT&T does not allege either a systemic failure or discriminatory billing performance on the part of Michigan Bell, but simply a dispute over the terms of its interconnection agreement. We therefore do not find that AT&T's allegation warrants a finding of checklist noncompliance. We note that AT&T could raise its concern with this Commission or the Michigan Commission, as appropriate.

107. We likewise reject commenters' criticisms that Michigan Bell failed to issue required debits and credits in conjunction with the reconciliation. Specifically, commenters note that the reconciliation did not result in any debits or credits for non-recurring charges (NRCs) or usage charges associated with the misbilled UNE-P circuits.<sup>356</sup> Further, MCI notes that Michigan Bell has thus far only issued credits and debits for circuits with ongoing misbilling at the time of the reconciliation.<sup>357</sup> Michigan Bell responds that competitive LECs were billed improperly for

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<sup>350</sup> AT&T Supplemental Comments at 27-28, 30-31; AT&T DeYoung/Tavares Supplemental Decl. at paras. 23-29; MCI Supplemental Comments at 6.

<sup>351</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 29.

<sup>352</sup> *Id.*

<sup>353</sup> *Id.* at para. 30.

<sup>354</sup> *Id.*; Michigan Bell Horst Supplemental Aff., Attach. B at 5-6. This credit actually provided also would be limited by any applicable time restrictions for credits contained in a particular carrier's interconnection agreement. Michigan Bell Horst Supplemental Aff., Attach. B at Attach. 1.

<sup>355</sup> AT&T DeYoung/Tavares Supplemental Decl. at para. 27.

<sup>356</sup> MCI Supplemental Comments at 5; MCI Lichtenberg Supplemental Decl. at paras. 25-27.

<sup>357</sup> MCI Lichtenberg Supplemental Decl. at para. 11.

circuits only when the circuits migrated to another carrier but that activity failed properly to post to CABS.<sup>358</sup> Thus, the original NRC was proper, and no new NRC would have been imposed because the service order activity failed to post to CABS.<sup>359</sup> Michigan Bell further states that nothing in the underlying records mismatch or subsequent reconciliation should have resulted in improper usage charges that would need to be adjusted.<sup>360</sup> Michigan Bell also explains that the only way a circuit would no longer be listed as in service in CABS at the time of the reconciliation is if it had been disconnected through the normal posting of service orders.<sup>361</sup> No improper charges would have been imposed by CABS if the service orders posted properly.<sup>362</sup> We find that Michigan Bell has adequately demonstrated that the concerns raised by commenters would not have resulted from the problems that caused the ACIS/CABS records mismatch.

108. We also reject AT&T's argument that Michigan Bell must restate its performance metric PM 17 to demonstrate checklist compliance.<sup>363</sup> Michigan Bell states that its reported results for PM 17 did not "disguise" the problem, as AT&T alleges. Instead, Michigan Bell explains, the ongoing efforts to post the manual backlog of held service order activity until approximately October 2002 appeared in the results of PM 17, causing Michigan Bell to miss parity in 11 months in 2002.<sup>364</sup> Michigan Bell admits, however, the service order activity still being held after October 2002 was not included in PM 17 because it was cancelled as part of the reconciliation, rather than being posted to CABS through the standard process.<sup>365</sup> Although we see no reason why Michigan Bell should not, in fact, restate its performance for PM 17 for some months under its restatement policy, we believe that this issue is more appropriately addressed by the Michigan Commission.<sup>366</sup> At any rate, given that the vast majority of the reconciliation took place in January 2003, any restatement of PM 17 would primarily affect periods outside our current review of Michigan Bell's performance data.

109. *Specific Billing Disputes.* Although commenters raise a host of specific Michigan Bell billing mistakes and other disputes between the parties, as discussed below, we do not find in this instance that these specific billing claims warrant a finding of checklist noncompliance. Commenters claim that Michigan Bell's bills are inaccurate because of specific instances of

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<sup>358</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 36.

<sup>359</sup> *Id.*

<sup>360</sup> *Id.*

<sup>361</sup> *Id.* at para. 35.

<sup>362</sup> *Id.*

<sup>363</sup> AT&T Supplemental Comments at 29.

<sup>364</sup> Michigan Bell Supplemental Reply, App., Tab 5, Supplemental Reply Affidavit of James D. Ehr (Michigan Bell Ehr Supplemental Reply Aff.) at paras. 5-6.

<sup>365</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 40 n.50.

<sup>366</sup> Michigan Bell Ehr. Reply Aff. at para. 49.

improper charges for products or services or the application of incorrect rates.<sup>367</sup> Michigan Bell shows that these problems generally were caused by isolated manual errors, which it has corrected, and for which appropriate credits have been issued.<sup>368</sup> Michigan Bell demonstrates that other alleged problems actually relate to interconnection disputes that it is addressing on a business-to-business basis.<sup>369</sup> In addition, TDS Metrocom expresses concern about problems with back billing,<sup>370</sup> Michigan Bell's imposition of late payment charges on disputes amounts,<sup>371</sup> and the manner in which Michigan Bell allocates credits.<sup>372</sup> Michigan Bell demonstrates that each of the cited back billing incidents were isolated occurrences to which Michigan Bell has responded by addressing the underlying problems and issuing appropriate credits.<sup>373</sup> Regarding the late payment charges, Michigan Bell explains that its LSC policies call for any late payment charges incurred while a bill was being disputed to be credited if the dispute is resolved in favor

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<sup>367</sup> AT&T Supplemental Comments at 29-30; AT&T DeYoung/Tavares Supplemental Reply Decl. at paras. 10-15; MCI Lichtenberg Supplemental Decl. at paras. 12-13, 33-45; CLECA July 14 *Ex Parte* Letter, Attach.; TDS Metrocom Reply at 4-5; TDS Metrocom Cox Aff. at para. 64; TDS Metrocom Supplemental Comments at 12-14; Sage Supplemental Comments at 11; Sage July 18 *Ex Parte* Letter, Attach. at 4.

<sup>368</sup> Michigan Bell Brown/Cottrell/Flynn Reply Aff. at paras. 44, 47; Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 87-108, 144-65; Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Decl. at paras. 85, 97; *see also* AT&T DeYoung/Tavares Supplemental Reply Decl. at paras. 14-15 (noting that billing problems were brought to its attention by Michigan Bell, which had already corrected the problems and provided appropriate credits).

<sup>369</sup> Michigan Bell Chapman/Cottrell Reply Aff. at paras. 33-35; Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 86. For example, Sage alleges it is being billed by SBC for incoming collect calls that its customers accept, in violation of its interconnection agreement. Sage Supplemental Comments at 11. Michigan Bell disagrees with Sage's interpretation of the interconnection agreement, and indicates that its policy regarding Incollect calls is its standard industry practice, applied to all competitive LECs, raising a question about whether the policy violates our rules or is denies competitors a meaningful opportunity to compete. *See* Michigan Bell Reply at 50-51; Michigan Bell Alexander Reply Aff. at paras. 11, 13. As another example, MCI argues that its loop rates have been misbilled. MCI Lichtenberg Supplemental Aff. at paras. 36-37. Michigan Bell states that it has charged MCI the proper UNE-P loop rates as clearly stated in the parties' interconnection agreement. Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 86. Nonetheless, Michigan Bell willingly negotiated with MCI regarding this issue, although Michigan Bell continues to argue that MCI would need to amend its interconnection agreement to incorporate the revised UNE-P tariff loop rates. *Id.* To the extent competitors believe discrimination exists, they may initiate enforcement action through state commission enforcement processes or this Commission in the context of a section 208 complaint proceeding. *See Verizon 3-State Order*, 18 FCC Rcd at 5301, para. 151.

<sup>370</sup> TDS Metrocom Cox Aff. at paras. 51-61; TDS Metrocom Supplemental Comments at 10-14.

<sup>371</sup> TDS Metrocom Cox Supplemental Aff. at para. 8.

<sup>372</sup> Letter from Mark Jenn, TDS Metrocom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16 at 2-3 (filed Mar. 14, 2003) (TDS March 14 *Ex Parte* Letter).

<sup>373</sup> *See* Michigan Bell Brown/Cottrell/Flynn Reply Aff. at paras. 46-48 & n.30; Michigan Bell Supplemental Reply, App., Tab 1, Supplemental Reply Affidavit of Scott J. Alexander (Michigan Bell Alexander Supplemental Reply Aff.) at para. 3 n.2.

of the competitive LEC.<sup>374</sup> Further, Michigan Bell states that its practice of issuing credits at the invoice level is a long-standing industry practice that allows competitive LECs to control the manner in which their credits are allocated.<sup>375</sup>

110. We find that Michigan Bell has demonstrated that the vast majority of these billing disputes are historical problems that Michigan Bell has resolved, or are disputes that Michigan Bell is addressing on a business-to-business basis. We note that a number of commenters' allegations are largely anecdotal in nature and lack sufficient supporting evidence.<sup>376</sup> Accordingly, we do not find that these claims are sufficient to overcome Michigan Bell's affirmative evidence that its billing systems meet the Commission's requirements.<sup>377</sup>

111. We reject TDS Metrocom's complaint that the scope of BearingPoint's testing was inadequate to identify certain problems it experienced.<sup>378</sup> Michigan Bell notes that BearingPoint's OSS test is similar to that relied upon in prior section 271 applications in numerous states.<sup>379</sup> Further, the Master Test Plan was developed with the input of competitive carriers and the Michigan Commission, and was not designed or intended to identify every conceivable problem with Michigan Bell's systems.<sup>380</sup> For these reasons, we conclude that the BearingPoint billing test was adequate for use in evaluating Michigan Bell's performance. Moreover, we note that we rely on the totality of Michigan Bell's evidence in concluding that Michigan Bell allows competing LECs a meaningful opportunity to compete.

112. Despite Michigan Bell's historical problems in producing accurate wholesale bills,<sup>381</sup> after a review of the evidence in this record of Michigan Bell's performance during the

<sup>374</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at paras. 81-82.

<sup>375</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 152.

<sup>376</sup> TDS Metrocom, for example, argues generally that it has "never received an accurate bill from Michigan Bell." TDS Metrocom Comments at 25 (further stating that TDS Metrocom has a team of five employees that spend 30% of their time reviewing SBC's bills and disputing billing inaccuracies and improper charges); *see also* TDS Metrocom Cox Aff. at paras. 46-68. CLECA makes several general allegations of wholesale billing problems based on the historical problems of a single competitive LEC, which have been resolved by Michigan Bell. CLECA Supplemental Comments at 10-11, Attach. 2 at 2-3 (citing alleged problems with LDMI's November 2002 bill); Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 84.

<sup>377</sup> *Qwest 9-State Order*, 17 FCC Rcd at 26511, para. 378 n.1423 ("When considering commenters' filings in opposition to the BOC's application, we look for evidence that the BOC's policies, procedures, or capabilities preclude it from satisfying the requirements of the checklist item. Mere unsupported evidence in opposition will not suffice.") (quoting *SBC Texas Order*, 15 FCC Rcd at 18375, para. 50).

<sup>378</sup> Letter from Mark Jenn, Manager – CLEC Federal Affairs, TDS Metrocom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138 at 1-4 (filed July 30, 2003) (TDS Metrocom July 30 *Ex Parte* Letter).

<sup>379</sup> Michigan Bell Cottrell Aff. at para. 26 & n.17.

<sup>380</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 8.

<sup>381</sup> *See supra* para. 94.

period we are assessing, we find that competitive LECs have not offered sufficient evidence to overcome Michigan Bell's demonstration that competitors are provided a meaningful opportunity to compete. The Department of Justice noted that competitive LECs allege a number of problems with their wholesale bills, and as a result, concluded that Michigan Bell's evidentiary showing fails to demonstrate checklist compliance.<sup>382</sup> Although the Department of Justice recognizes that Michigan Bell addresses "specific billing errors as they arise,"<sup>383</sup> it finds such evidence insufficient to overcome the competitive LECs' billing allegations.<sup>384</sup> Notably, however, the Department of Justice does not contend, nor put forward any additional evidence to suggest, that Michigan Bell's billing system is systemically flawed. The Commission has previously found that the BOC meets its evidentiary burden by showing that it has adequately responded to problems as they have arisen, because there inevitably will be errors and carrier-to-carrier disputes, particularly considering the complexity of billing systems and volume of transactions handled in states like Michigan.<sup>385</sup> As we have discussed above, many of the "billing systems" problems raised by competitive LECs actually are interconnection disputes, are attributable to isolated mistakes on the part of Michigan Bell employees, arise out of the ACIS/CABS reconciliation, or are historical problems with other aspects of Michigan Bell's OSS unrelated to its billing systems. We conclude that commenters fail to demonstrate that Michigan Bell's errors are indicative of a systemic problem, rather than isolated instances of problems

<sup>382</sup> Department of Justice Supplemental Evaluation at 8-9; *see also* Department of Justice 4-State Evaluation at 12-15 (asserting that Michigan Bell's responses to concerns raised by competitive LECs in Michigan are inadequate to demonstrate checklist compliance).

<sup>383</sup> Department of Justice Supplemental Evaluation at 8.

<sup>384</sup> Department of Justice Supplemental Evaluation at 8-9 (stating that Michigan Bell's efforts to address specific billing problems are "commendable," but concluding that Michigan Bell must submit additional evidence to demonstrate checklist compliance); *see also* Department of Justice 4-State Evaluation at 14 (arguing that responses to the specific billings problems raised by competitive LECs in the SBC Midwest region are inadequate to demonstrate checklist compliance in the absence of additional information).

<sup>385</sup> *See, e.g., Verizon 3-State Order* 18 FCC Rcd at 5227-32, paras. 28-34 (finding that "[w]hile competing carriers advance a number of arguments about Verizon's billing, many of these problems appear to be resolved historical problems," and thus the claims are "not reflective of a systemic problem that would warrant a finding of checklist noncompliance"); *SBC California Order*, 17 FCC Rcd at 25696-702, paras. 90-95 (finding that the competitive LECs' disputes "have little relevance to the effectiveness of Pacific Bell's billing systems," and "did not provide sufficient information to rebut Pacific Bell's response that it took appropriate action with regard to these disputes," and thus concluding that "[m]any of the problems identified by commenters appear to be resolved historical problems, and even in the aggregate, these claims do not overcome Pacific Bell's demonstration of checklist compliance"); *Application by Verizon Virginia Inc., Verizon Long Distance Virginia, Inc., Verizon Enterprise Solutions Virginia Inc., Verizon Global Networks Inc., and Verizon Select Services of Virginia Inc., for Authorization to Provide In-Region, InterLATA Services in Virginia*, WC Docket No. 02-214, Memorandum Opinion and Order, 17 FCC Rcd 21880, 21901-12, paras. 40-55 (2002) (*Verizon Virginia Order*) (finding that "[w]hile competing carriers advance a number of arguments about Verizon's billing, many of these problems appear to be resolved historical problems and, even in the aggregate, these claims do not overcome Verizon's demonstration of checklist compliance" where the claims "do not indicate current systemic or recurring billing problems"); *Verizon New Jersey Order*, 17 FCC Rcd at 12336-37, para. 126 (finding that the Commission "cannot, without further evidence find that the parties have demonstrated systemic inaccuracies in Verizon's wholesale bills that would require a finding of checklist noncompliance").

typical of high-volume carrier-to-carrier commercial billing.<sup>386</sup> Indeed, the Department of Justice acknowledges that many of the competitive LECs' complaints "individually may not rise to a level of concern that would warrant denial of SBC's application, or may encompass disputes more appropriately resolved elsewhere."<sup>387</sup> We find that Michigan Bell's evidence that it addresses billing problems as they arise is sufficient to respond to the competitive LECs' specific billing allegations, and demonstrate checklist compliance.<sup>388</sup> Although we judge Michigan Bell's wholesale billing at the time of its application, we recognize that access to OSS is an evolutionary process, and we expect that Michigan Bell will continue to improve its wholesale billing in the future.

## (ii) Service Usage Reports

113. We find, as did the Michigan Commission,<sup>389</sup> that Michigan Bell complies with its obligation to provide complete, accurate, and timely reports on service usage. The record in this proceeding indicates that Michigan Bell provides competitive carriers with daily usage files (DUFs), which allow competitive carriers access to usage records, including end user, access and interconnection records.<sup>390</sup> We find that the commercial performance results and BearingPoint testing demonstrate that Michigan Bell provides timely and accurate reports on service usage.<sup>391</sup> Based on the record evidence, we conclude that Michigan Bell's provision of service usage data

<sup>386</sup> As noted above, the D.C. Circuit recently held that weighing conflicting evidence is "a matter peculiarly within the province of the Commission." *Z-Tel v. FCC*, slip op. at 17.

<sup>387</sup> Department of Justice Supplemental Evaluation at 6. Likewise, VarTec Telecom states that it "has seen a marked improvement in the accuracy of [Michigan Bell's] bills" since January 2003, and that any billing problems it has experienced do not appear to "constitute vast, systemic or procedural billing problems. These problems are discreet and independent occurrences in a very complex system." VarTec July 14 *Ex Parte* Letter at 2.

<sup>388</sup> For these same reasons we find no evidence to suggest that Michigan Bell's various billing problems result from errors "in the underlying databases from which bills are calculated and in the processes by which data is entered into and extracted from those databases," contrary to the claims made by commenters and the Department of Justice. Department of Justice Supplemental Evaluation at 9; *see also* MCI Lichtenberg Supplemental Decl. at para. 22; MCI Lichtenberg Supplemental Reply Decl. at para. 7; AT&T Supplemental Reply at 21.

<sup>389</sup> Michigan Commission Comments at 74.

<sup>390</sup> Michigan Bell Flynn Aff. at para. 12. Competitive LECs can use the DUFs to: (1) bill their end-user customers; (2) bill interconnecting carriers; and (3) reconcile their wholesale bills. Competitive LECs may elect to have their DUF delivered electronically, or via magnetic tape/cartridge, and have the option of receiving their DUF file on a daily basis. Michigan Bell Flynn Aff. at para. 12.

<sup>391</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at paras. 7, 15; *see also* App. B. We reject AT&T's claim that the third-party test results regarding Michigan Bell's DUF reporting are unreliable because the data reported by Michigan Bell are inaccurate. AT&T Moore/Connolly Decl. at 40-41 (noting that 667 of 1,799 DUF records were missing from the March 2002 data); *see also* Michigan Commission Report at 22 (stating that reliance on this measure "should be cautioned"). Michigan Bell explains that, as of December 2002, it had resolved the reporting error. Michigan Bell Ehr Aff., Attach. P at 7. Consequently, Michigan Bell's DUF performance data are reliable for the time periods currently under review, and we find that the reporting error has sufficiently been resolved.

through the DUF meets its obligations in this regard.

114. We reject AT&T's criticism that, upon reviewing credits from the ACIS/CABS reconciliation, it identified 187 instances where it received a credit indicating that the customer had migrated to another carrier, but for which AT&T had continued to receive usage data for some time.<sup>392</sup> Michigan Bell responds that AT&T misunderstood how credit dates were calculated during the reconciliation.<sup>393</sup> Specifically, Michigan Bell states that the "from" date for a reconciliation-related credit was not always the date on which the customer migrated from AT&T.<sup>394</sup> In some instances the actual date the customer migrated was no longer available, so, to avoid disadvantaging the competitive LEC, Michigan Bell provided a credit for charges from the date the competitive LEC was first billed for the circuit.<sup>395</sup> In these instances, the time period covered by the credit would include dates before the customer actually migrated, and during which the competitive LEC would properly have been receiving usage data.<sup>396</sup> We conclude that AT&T has identified only a few, isolated problems with Michigan Bell's DUF files, which, in light of Michigan Bell's DUF metric performance and successful third-party tests, we do not find to be competitively significant.

115. We similarly reject MCI's complaint that between February and April 2003 it identified approximately 700 usage records for customers for which it had received a LLN and was no longer receiving wholesale bills.<sup>397</sup> MCI states, however, that on June 3, 2003, Michigan Bell informed it that a number of the mismatches between MCI's records and the usage data were attributable to historical LLN problems.<sup>398</sup> As discussed above, these problems have largely been resolved through the Michigan Commission's LLN collaborative.<sup>399</sup> MCI states that Michigan

<sup>392</sup> Letter from Alan C. Geolot, Counsel for AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16 at 2-3 (filed Apr. 14, 2003) (AT&T April 14 *Ex Parte* Letter); AT&T Supplemental Comments at 30-31; MCI Lichtenberg Supplemental Decl. at paras. 28-29. AT&T also notes that DUF charges were incorrectly applied in Indiana and that Michigan Bell recently disclosed that a coding error in a software release resulted in DUF file errors. AT&T DeYoung/Tavares Supplemental Decl. at para. 17; AT&T DeYoung/Tavares Supplemental Reply Decl. at para. 16; *see also* MCI Lichtenberg Supplemental Decl. at para. 30 (discussing the coding error). However, these problems appear to have already been resolved. Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 83; AT&T DeYoung/Tavares Supplemental Reply Decl. at para. 16.

<sup>393</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Aff. at para. 137.

<sup>394</sup> *Id.*

<sup>395</sup> *Id.* As noted above, however, no credit was provided for a date prior to the CABS conversion or for a longer period of time than allowed for in the relevant interconnection agreement. *See supra* para. 105.

<sup>396</sup> *Id.*

<sup>397</sup> MCI Lichtenberg Supplemental Decl. at para. 28. MCI also identified 513 allegedly incorrect usage records in November 2002, however that is outside the time period currently at issue in this review.

<sup>398</sup> MCI Lichtenberg Supplemental Decl. at paras. 28-29.

<sup>399</sup> *See supra* para. 100.

Bell acknowledged that other mismatches were due to manual errors by LSC personnel, but Michigan Bell was providing the appropriate credits.<sup>400</sup> Michigan Bell further states that it makes LSC resources and bill dispute processes available to allow resolution of such problems to the extent that they occur.<sup>401</sup> We find that the DUF problems attributable to errors in Michigan Bell's billing systems, rather than historical, resolved LLN problems, constitute only a limited number of isolated problems. As we stated above, in light of Michigan Bell's DUF metric performance and successful third-party tests, we do not find such limited problems to be competitively significant.

116. We also reject Sage's claim that Michigan Bell fails to provide accurate call detail records necessary for Sage's collection of access revenues.<sup>402</sup> Michigan Bell states that Sage first informed it of missing records for Michigan on June 25, 2003, and it is currently working with Sage to obtain the additional information necessary to investigate and resolve this issue.<sup>403</sup> Without specific evidence of systemic errors in Michigan Bell's systems, we do not find that this problem, which Michigan Bell is addressing on a business-to-business basis with Sage, warrants a finding of checklist noncompliance.<sup>404</sup>

#### g. Change Management

117. We conclude that Michigan Bell demonstrates that it satisfies checklist item 2 regarding change management. In its prior orders, the Commission has explained that it must review the BOC's change management procedures to determine whether these procedures afford an efficient competitor a meaningful opportunity to compete by providing sufficient access to the BOC's OSS.<sup>405</sup> In evaluating whether a BOC's change management plan affords an efficient competitor a meaningful opportunity to compete, we first assess whether the plan is adequate by determining whether the evidence demonstrates: (1) that information relating to the change

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<sup>400</sup> MCI Lichtenberg Supplemental Decl. at paras. 28-29.

<sup>401</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 37.

<sup>402</sup> Sage Supplemental Comments at 11-12. TSI also argues that Michigan Bell fails to provide billing detail necessary for TSI to "determine accurate signaling message counts and proper jurisdictional billing treatment associated with those calls." Letter from David J. Robinson, TSI, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 2 (filed July 18, 2003) (TSI July 18 *Ex Parte* Letter). We note that TSI provides no details regarding its complaint and thus, consistent with prior section 271 orders, we do not find that its claim overcomes Michigan Bell's affirmative showing of checklist compliance. *See Verizon 3-State 271 Order*, 18 FCC Rcd at 5225, para. 24 ("[W]e give little, if any, weight to allegations in a section 271 proceeding without the minimum amount of detail necessary for us to determine whether the applicant fails the checklist."). Furthermore, TSI is not a telecommunications carrier so we do not review Michigan Bell's performance in providing bills to TSI under section 271. 47 U.S.C. § 271(c)(2)(B).

<sup>403</sup> Michigan Bell Brown/Cottrell/Flynn Supplemental Reply Aff. at para. 89.

<sup>404</sup> *See Verizon 3-State 271 Order*, 18 FCC Rcd at 5225, para. 24.

<sup>405</sup> *See Bell Atlantic New York Order*, 15 FCC Rcd at 3999-4000, paras. 102-03; *SWBT Texas Order*, 15 FCC Rcd at 18403-04, paras. 106-08.

management process is clearly organized and readily accessible to competing carriers; (2) that competing carriers had substantial input in the design and continued operation of the change management process; (3) that the change management plan defines a procedure for the timely resolution of change management disputes; (4) the availability of a stable testing environment that mirrors production; and (5) the efficacy of the documentation the BOC makes available for the purpose of building an electronic gateway.<sup>406</sup> After determining whether the BOC's change management plan is adequate, we evaluate whether the BOC has demonstrated a pattern of compliance with this plan.<sup>407</sup>

118. *Adequacy of Change Management Plan.* Michigan Bell's change management plan (CMP) in Michigan is the same CMP that is used throughout SBC's thirteen-state region.<sup>408</sup> With the exception of the revised notice provisions discussed below, the Commission reviewed and approved this CMP in the Arkansas/Missouri and the California section 271 proceedings.<sup>409</sup> We find no compelling reason to deviate from our previous finding regarding the basic framework of the CMP and, as discussed below, we conclude that the design of Michigan Bell's CMP is adequate.

119. We rely on Michigan Bell's revised CMP, adopted by the Michigan Commission on March 26, 2003.<sup>410</sup> We find that the revised CMP clarifies that Michigan Bell must provide notice of all competitive LEC-impacting changes, including any "new edits initiated by SBC" and "new edits in response to a CLEC-impacting defect."<sup>411</sup> Michigan Bell explains that the new CMP is designed to "facilitate communicating system changes that occur between releases and more specifically, for the types of changes that were the basis for the comments filed by AT&T and noted by the [Michigan Commission]."<sup>412</sup> We agree with Michigan Bell, and find that

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<sup>406</sup> *SWBT Texas Order*, 15 FCC Rcd at 18404, para. 108. We have noted previously that we are open to consideration of change management plans that differ from those already found to be compliant with section 271. *Bell Atlantic New York Order*, 15 FCC Rcd at 4004, para. 111; *SWBT Texas Order*, 15 FCC at 18404, para. 109.

<sup>407</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3999, 4004-05, paras. 101, 112.

<sup>408</sup> Michigan Bell Application at 56; Michigan Bell Cottrell/Lawson Supplemental Aff. at para. 22.

<sup>409</sup> *SWBT Arkansas/Missouri Order*, 16 FCC Rcd at 20725, para. 15; *SBC California Order*, 17 FCC Rcd at 25650, 25702, para. 96. Michigan Bell also adds that much of the current CMP was taken from its predecessor, SBC's eight-state CMP, which was reviewed and approved by the Commission in the Texas and Kansas/Oklahoma Section 271 applications. Michigan Bell March 14 *Ex Parte* Letter, Attach. D at 1-2. See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd. at 6318, para. 166; *SWBT Texas Order*, 15 FCC Rcd at 18403, para. 105.

<sup>410</sup> *In the Matter, on the Commission's Own Motion. To Consider SBC's, f/k/a Ameritech Michigan. Compliance With the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996*, Case No. U-12320, Opinion and Order (Michigan Commission Mar. 26, 2003) (Michigan Commission Compliance Plan Order).

<sup>411</sup> Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16, Attach. F at 4 (filed Mar. 13, 2003) (Michigan Bell March 13 *Ex Parte* Letter).

<sup>412</sup> Michigan Bell March 13 *Ex Parte* Letter, Attach. F at 2.

Michigan Bell's CMP adequately requires Michigan Bell to notify competitive LECs before implementing any changes that affect competitive LECs.<sup>413</sup>

120. *Adequate Documentation.* We also conclude that Michigan Bell provides the documentation and support necessary to provide competitive LECs nondiscriminatory access to Michigan Bell's OSS.<sup>414</sup> We reject competitive LECs' assertions that, because of several revisions to the documentation for past LSOG releases, Michigan Bell fails to provide adequate documentation.<sup>415</sup> For instance, AT&T contends that Michigan Bell issued more than 1,000 pages of revisions to LSOG 5 between August 2001 and August 2002.<sup>416</sup> MCI states that Michigan Bell has issued five sets of documentation changes for LSOG 5.02, three sets of changes for LSOG 5.03, and one set of changes for LSOG 6.<sup>417</sup> Other than stating the number of revisions for each release, however, AT&T's and MCI's allegations of historical problems contain little supporting detail for this Commission to make a determination that Michigan Bell fails to provide adequate documentation.<sup>418</sup> Moreover, we note that other than MCI describing one documentation revision made for LSOG 6, no party raises any specific issues regarding

<sup>413</sup> Michigan Bell Cottrell/Lawson Supplemental Aff. at para. 21.

<sup>414</sup> See *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6318-19, para. 167; *SWBT Texas Order*, 15 FCC Rcd at 18409-20, paras. 116-34.

<sup>415</sup> AT&T DeYoung/Willard Decl. at paras. 186-95; MCI Lichtenberg Supplemental Decl. at paras. 75-77.

<sup>416</sup> AT&T DeYoung/Willard Decl. at para. 187.

<sup>417</sup> MCI Lichtenberg Supplemental Decl. at paras. 74-75. We also reject MCI's allegation that the number of "defects" with Michigan Bell's LSOG 6 release prevents competitive LECs from moving to the latest LSOG version. *Id.* at para. 76. Based on the record before us, we are unable to determine either the scope or effect of any defects in LSOG 6 (which, according to MCI's figures, are less than the number of defects for LSOG 5.02 and LSOG 5.03), and, further, whether these alleged problems actually affect Michigan competitive LECs. For example, MCI states that LSOG 6 "already" has 53 defects, and that LSOG 5.02 and LSOG 5.03 have 65 and 111 defects respectively. *Id.* MCI, however, acknowledges that less than two-thirds of the total number defects for all three releases (146 out of 229) apply to the "SBC-Ameritech region." *Id.* Thus, according to MCI's figures we are unable to determine how many defects in LSOG 6 relate to Michigan competitive LECs. We also reject MCI's argument that an increase in reported defects for LSOG 6.0, from 44 to 79 defects during the month of August 2003, demonstrates that Michigan Bell's OSS performance is deteriorating. MCI September 8 *Ex Parte* Letter at 8. Michigan Bell demonstrates that this figure does not represent an increase in actual defects, but only an increase due to expanded reporting requirements as required under the new Change Management Communications Plan. Michigan Bell September 12 *Ex Parte* Letter, Attach. at 1. MCI also claims that Michigan Bell "artificially" reduces the number of reported defects. MCI September 8 *Ex Parte* Letter at 8. Michigan Bell, however, demonstrates the reductions in the number of reported defects are largely due to improperly reported defects, *e.g.*, programming that complies with the business requirements, being reclassified as change requests. Michigan Bell September 12 *Ex Parte* Letter, Attach. at 3. Finally, MCI describes only one defect in LSOG 5.02 – a version that MCI no longer uses.

<sup>418</sup> For example, to support its claim that Michigan Bell "develops OSS ordering requirements on an ad hoc, on-the-spot" basis, AT&T describes only one type of order for which it was unable to find documentation – when a customer with multiple lines requests disconnection of its billing telephone number. AT&T DeYoung/Willard Decl. at para. 188-95. It appears from AT&T's comments, however, that Michigan Bell has actively sought to resolve AT&T's concerns on a company-to-company basis. Nonetheless, we do not find this one problem to be indicative of a systemic problem.

Michigan Bell's documentation for its recent release.<sup>419</sup> Thus, we conclude that no widespread problems exist with Michigan Bell's documentation that would undermine a carrier's access to Michigan Bell's OSS.

121. *Testing Environment.* Based on the record, we reject AT&T's argument that Michigan Bell fails to maintain an adequate test environment because Michigan Bell limits the amount of retesting of successful orders to three resubmissions.<sup>420</sup> AT&T argues that this limit puts competitive LECs at a competitive disadvantage because Michigan Bell is able to test transactions and changes as often as it wants.<sup>421</sup> Michigan Bell, on the other hand, asserts that it should not be expected to bear the burden of repetitious testing for the purpose of allowing AT&T to validate its own back-end and upstream systems.<sup>422</sup> Because Michigan Bell demonstrates that it allows competitive LECs to submit multiple test transactions, we are unable to conclude that Michigan Bell's testing environment is flawed or that the retesting limit has an impact that is competitively significant. Thus we find that Michigan Bell's test environment satisfies the requirements of checklist item 2. Moreover, the same testing processes and systems that are used to perform testing in Michigan were reviewed and approved in the Arkansas/Missouri and the California proceedings.<sup>423</sup>

122. *Adherence to the CMP.* The remaining issue is whether the BOC has demonstrated a pattern of compliance with this plan.<sup>424</sup> We find that Michigan Bell has demonstrated a pattern of compliance in notifying competitive LECs of changes to its interfaces and systems.<sup>425</sup> We note, however, that several commenters in the *Michigan I* proceeding claimed that Michigan Bell implemented unannounced changes to its OSS interfaces that interfered with their ability to submit orders, and that these changes demonstrate lack of

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<sup>419</sup> We note that TDS Metrocom previously stated that it experienced numerous problems during its attempts to transition from LSOG 4 to LSOG 5. TDS Metrocom Comments at 22. However, TDS Metrocom does not provide sufficient detail regarding this issue for the Commission to reach a different conclusion.

<sup>420</sup> AT&T DeYoung/Willard Decl. at paras. 177-85.

<sup>421</sup> AT&T DeYoung/Willard Decl. at para. 180. TDS Metrocom claims that the test environment from LSOG 4 to LSOG 5 was not "sufficiently rigorous" but no further details were provided. TDS Metrocom Comments at 21-22.

<sup>422</sup> Michigan Bell Cottrell/Lawson Reply Aff. at para. 70; *see also* Michigan Bell Cottrell/Lawson Supplemental Aff. at para. 15 ("[Michigan Bell] has complied with all CMP notification, documentation, and testing requirements that applied to the June 2003 release [of LSOG 6]").

<sup>423</sup> *SWBT Arkansas/Missouri Order*, 16 FCC Rcd at 20725, para. 15; *SBC California Order*, 17 FCC Rcd at 25702, para. 96.

<sup>424</sup> *Bell Atlantic New York Order*, 15 FCC Rcd at 3999, 4004-05, para. 101, 112.

<sup>425</sup> We note that TDS Metrocom complains that that Michigan Bell introduced a new DSL loop qualification process (called the "YZP Process") without notifying competitive LECs of the change. TDS Metrocom Comments at 22; TDS Metrocom Cox Aff. at para. 26. Because the YZP process was an additional optional process, we find that Michigan Bell's failure to notify TDS Metrocom of this change did not violate the CMP. *See* Michigan Bell Reply, App. A, Reply Affidavit of Carol A. Chapman and Mark J. Cottrell, at para. 29 (Michigan Bell Chapman/Cottrell Reply Aff.).

adherence to the CMP.<sup>426</sup> We address below competitive LEC concerns regarding Michigan Bell's adherence to its CMP and conclude that each of these claims has been resolved by Michigan Bell's adherence to its revised CMP.

123. In the *Michigan I* proceeding, commenters identified several historical instances in which Michigan Bell made unannounced changes to its interfaces or systems.<sup>427</sup> Additionally, TDS Metrocom stated that Michigan Bell "does not use the CMP effectively" because it imposes new business rules without following the CMP.<sup>428</sup> Lastly, several commenters claimed that Michigan Bell's failure to notify competitive LECs of system changes occurred when Michigan Bell implemented LSOG 4 and LSOG 5.<sup>429</sup>

124. We conclude that Michigan Bell demonstrates that it adheres to its current CMP, which requires it to provide notice of all competitive LEC-impacting changes, including changes raised by commenters in the *Michigan I* proceeding.<sup>430</sup> As noted above, Michigan Bell has revised its CMP to contain increased notice requirements, including additional training for Michigan Bell personnel and quarterly status reports to the Michigan Commission. We find that Michigan Bell's first quarterly status report describing its compliance with the new CMP, filed with the Michigan Commission on April 30, 2003, supports a finding that Michigan Bell complies with the notice provisions of the CMP.<sup>431</sup> Moreover, we emphasize that all of the unannounced changes raised by commenters in *Michigan I* have been resolved prior to the filing of the instant application and, moreover, no party raises any issues with Michigan Bell's compliance with the new CMP.<sup>432</sup>

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<sup>426</sup> See, e.g., AT&T Comments at 12-16, 24-26; AT&T Reply at 5-13; TDS Metrocom Cox Aff. at paras. 21-22; TDS Metrocom Reply at 2, 8-9.

<sup>427</sup> For example, according to AT&T, unannounced changes made by Michigan Bell in the five months preceding the filing of the *Michigan I* application affected more than 50,000 of its orders in the SBC Midwest region – approximately one third (or 16,000) of which are attributed to Michigan. Letter from Richard E. Young, Esq., Counsel for AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16, Joint Supplemental Declaration of Sarah DeYoung and Walter W. Willard at para. 11 (filed Mar. 25, 2003) (AT&T March 25 *Ex Parte* Letter) (AT&T March 25 DeYoung/Willard Decl.); see also AT&T DeYoung/Willard Decl. at paras. 65, 70, 77-79, 82-90, 106.

<sup>428</sup> TDS Metrocom Cox Aff. at para. 21 (TDS Metrocom complains that Michigan Bell imposed new rules regarding removal of non-excessive bridged taps without going through the CMP).

<sup>429</sup> AT&T Comments at 25-26; TDS Metrocom Comments at 21-22; see also AT&T March 25 DeYoung/Willard Decl. at para. 16.

<sup>430</sup> Michigan Bell Cottrell/Lawson Supplemental Reply Aff. at para. 21-23. Michigan Bell states that it has implemented the revised CMP on a 13-state basis. *Id.* at 22.

<sup>431</sup> Michigan Bell Supplemental Application, App. C, Tab 12, Michigan Bell CMP Status Report.

<sup>432</sup> Likewise, we reject MCI's allegations that Michigan Bell fails to respond to change management requests. MCI Lichtenberg Supplemental Decl. at para. 79. Even accepting MCI's allegations that several requests for changes remain outstanding, MCI fails to cite any provision of the CMP that Michigan Bell violates. Thus, we are unable to find that Michigan Bell violates the CMP.

125. Accordingly, based on the record, we find that the past problems with Michigan Bell's change management process identified by commenters do not warrant a finding of checklist noncompliance, particularly in light of Michigan Bell's recent performance and its commitment to provide notice of all competitive LEC-impacting changes. Moreover, we find that the record in this proceeding shows that Michigan Bell's change management process, and its performance under this process, is comparable to or better than what we have approved in the past section 271 applications.<sup>433</sup> Therefore, we conclude that Michigan Bell complies with the change management requirements of checklist item 2.

126. We note that, while we find Michigan Bell's performance to be adequate here, we believe it is essential for Michigan Bell to follow through on its commitment to continue to improve its change management process and adherence, particularly in regard to notifying competitive LECs of all the types of changes that Michigan Bell now knows to be competitive LEC-affecting. It is critical that Michigan Bell continue to work collaboratively with competitive LECs on providing timely notice of competitive LEC-affecting changes. Failure to observe an effective change management process could lead to review by the Michigan Commission or enforcement action by this Commission in accordance with section 271(d)(6).

#### C. Checklist Item 4 – Unbundled Local Loops

127. Section 271(c)(2)(B)(iv) of the Act requires that a BOC provide “[l]ocal loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”<sup>434</sup> Based on the evidence in the record, we conclude, as did the Michigan Commission, that Michigan Bell provides unbundled local loops in accordance with the requirements of section 271 and our rules.<sup>435</sup> Our conclusion is based on our review of Michigan Bell's performance for all loop types, which include voice-grade loops, xDSL-capable loops, digital loops, high-capacity loops, as well as our review of Michigan Bell's processes for hot cut provisioning, and line sharing and line splitting.<sup>436</sup> As of the end of December 2002, competitors in Michigan have acquired from Michigan Bell and placed in use approximately 272,000 stand-

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<sup>433</sup> In prior section 271 proceedings, we have found that an isolated instance of noncompliance with CMP does not rise to a level of checklist noncompliance when a BOC shows a pattern of adherence to its CMP. *Qwest 9-State Order*, 17 FCC Rcd at 26394, para. 148 (finding that an isolated instance of noncompliance with CMP was not sufficient to undercut Qwest's overall performance); *Application by Verizon Virginia Inc., Verizon Long Distance Virginia, Inc., Verizon Enterprise Solutions Virginia Inc., Verizon Global Networks Inc., and Verizon Select Services of Virginia Inc., for Authorization to Provide In-Region, InterLATA Services in Virginia*, Memorandum Opinion and Order, 17 FCC Rcd 21880, 21913, para. 57 (2002) (*Verizon Virginia Order*) (finding that an “isolated incident” did not undermine Verizon's pattern of adherence to its CMP).

<sup>434</sup> 47 U.S.C. § 271(c)(2)(B)(iv); *see also* App. C (setting forth the requirements under checklist item 4).

<sup>435</sup> Michigan Commission Comments at 95.

<sup>436</sup> See Part IV.A for a general discussion of our approach to reviewing Michigan Bell's performance for purposes of this application.

alone loops (including DSL loops) and approximately 933,000 UNE-P loop and switch port combinations.<sup>437</sup>

128. *xDSL-Capable Loops.* We find, as did the Michigan Commission,<sup>438</sup> that Michigan Bell provides xDSL-capable loops to competitors in a nondiscriminatory manner.<sup>439</sup> Although Michigan Bell missed two installation interval metrics for DSL loops for several months,<sup>440</sup> as we have noted in prior section 271 orders, we accord the installation interval metrics little weight because results can be affected by a variety of factors outside the BOC's control that are unrelated to provisioning timeliness.<sup>441</sup> Instead, we conclude that the missed due date metric is a more reliable indicator of provisioning timeliness. In this regard, Michigan Bell's met the applicable standard for missed due dates for all five months under review.<sup>442</sup>

129. We reject TDS Metrocom's argument that Michigan Bell fails to condition loops in accordance with Commission rules. TDS Metrocom asserts that in February 2002 Michigan

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<sup>437</sup> Michigan Commission Supplemental Comments, Attach. A, Staff Report, Results of Fourth Competitive Market Conditions Survey at 4 (May 2003).

<sup>438</sup> Michigan Commission Comments at 84, 88-89.

<sup>439</sup> Michigan Bell generally met the relevant parity or benchmark standard regarding provisioning and maintenance and repair of xDSL-capable loops. See, e.g., PM 58-04 (Percent Ameritech-Caused Missed Due Dates; DSL; No Line Sharing); PM 59-04 (Percent Trouble Reports Within 30 Days of Installation; DSL; No Line Sharing); PM 65-04 (Trouble Report Rate; DSL; No Line Sharing); PM 67-04 (Mean Time to Restore; Dispatch; DSL; No Line Sharing); PM 67-19 (Mean Time to Restore; No Dispatch; DSL; No Line Sharing); PM 69-04 (Percent Repeat Trouble Reports; DSL; No Line Sharing); see also App. B.

<sup>440</sup> Michigan Bell missed PM 55-12 (Average Installation Interval; DSL Loops Requiring No Conditioning; Line Sharing) in February through April 2003 by an average of 0.8 days. Michigan Bell states that the misses for PM 55-12 were due largely to DSL loop orders where no loop makeup information was initially available and the loop ultimately did not require conditioning. Michigan Bell automatically assigns such loops extended 10-day due date intervals, resulting in a longer average installation interval for such loops. Michigan Bell implemented processes and improved oversight to help reduce the number of orders assigned 10-day due dates. Michigan Bell Ehr Supplemental Aff. at para. 64 & n.33. In light of the lack of evidence to the contrary, we find this explanation persuasive.

Michigan Bell also missed PM 55-13 (Average Installation Interval; DSL Loops Requiring Conditioning; No Line Sharing) in May and June 2003. However, Michigan Bell missed the ten day benchmark for those months by only a small amount (0.69 days in May and 0.17 days in June).

<sup>441</sup> See, e.g., *Bell Atlantic New York Order*, 15 FCC Rcd at 4061, paras. 202-10 (listing factors beyond the BOC's control that affect the average installation interval metric: "(1) competitive LECs are choosing installation dates beyond the first installation date made available by Bell Atlantic's systems (the 'W-coding' problem); (2) for non-dispatch orders, competitive LECs are ordering a relatively larger share of services and UNEs that have long standard intervals (the 'order mix' problem); and (3) for dispatch orders, competitive LECs are ordering a relatively larger share of services in geographic areas that are served by busier garages and, as a result, reflect later available due dates (the 'geographic mix' problem)."); see also *Qwest 9-State Order*, 17 FCC Rcd at 26402, para. 163; *BellSouth Florida/Tennessee Order*, 17 FCC Rcd at 25896-97, para. 136 & n.463.

<sup>442</sup> PM 58-04 (Percent Ameritech-Caused Missed Due Dates; DSL; No Line Sharing).

Bell adopted a new policy requiring a separate process to remove bridged taps of less than 2,500 feet, rather than removing them as part of standard loop conditioning.<sup>443</sup> TDS Metrocom alleges that Michigan Bell "continues to block the provisioning of DSL loops" to TDS Metrocom customers in Michigan.<sup>444</sup> Contrary to TDS Metrocom's assertion, Michigan Bell explains that the removal of bridged taps in its standard loop conditioning process has not changed. Michigan Bell routinely removes bridged taps of 2,500 feet or more,<sup>445</sup> but has offered the removal of bridged taps of less than 2,500 feet through the bona fide request (BFR) process.<sup>446</sup> Michigan Bell developed this loop conditioning process in consultation with various competitive LECs, based on industry standards, and this is the loop conditioning process specified in TDS Metrocom's existing interconnection agreement.<sup>447</sup> Michigan Bell states that carriers only infrequently have used the BFR process to seek removal of bridged taps of less than 2,500 feet, with approximately 100 requests between July 2002 and February 2003, all from Michigan Bell's affiliate Ameritech Advanced Data Services (AADS).<sup>448</sup> Based on the evidence in the record, we find that Michigan Bell is simply using a different process to remove bridged taps of less than 2,500 feet and that these processes have been applied in a nondiscriminatory manner. Notably, there is no evidence that Michigan Bell has denied a request by TDS Metrocom to use the BFR process. Accordingly, Michigan Bell has not prevented TDS Metrocom from provisioning DSL service.<sup>449</sup>

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<sup>443</sup> TDS Metrocom Comments at 27-28; TDS Metrocom Cox Aff. at paras. 69-80. In the context of its discussion of change management, the Department of Justice also notes that TDS Metrocom's argument, if true, could adversely affect competitive LECs' ability to compete. Department of Justice Evaluation at 7 and n.24.

<sup>444</sup> TDS Metrocom Comments at 27-28; TDS Metrocom Cox Aff. at paras. 69-80; *see also* Letter from Mark Jenn, Manager - CLEC Federal Affairs, TDS Metrocom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16 at 4 (filed Mar. 14, 2003) (TDS Metrocom March 14 *Ex Parte* Letter).

<sup>445</sup> Michigan Bell Chapman/Cottrell Reply Aff at paras. 30-35.

<sup>446</sup> Michigan Bell Chapman/Cottrell Reply Aff. at paras. 33-34. This process allows competitive LECs to submit a trouble ticket to have bridged taps less than 2,500 feet removed after the loop has been provisioned and found unable to support xDSL service. *Id.* Michigan Bell also has introduced the option of having such bridged taps removed through a trouble ticket process. *Id.*

<sup>447</sup> *Id.* at paras. 31-32; Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16, Attach. A at 18 (filed Mar. 17, 2003) (Michigan Bell March 17 *Ex Parte* Letter).

<sup>448</sup> Michigan Bell March 17 *Ex Parte* Letter, Attach. A at 17; *see also* Michigan Bell Application, App. B, Volume 1a, App. DSL-SBC-13 State at 9; Michigan Bell March 17 *Ex Parte* Letter, Attach. A at 17.

<sup>449</sup> Michigan Bell Chapman/Cottrell Reply Aff. at para. 35 & n.48. We note that TDS Metrocom remains free to negotiate alternative loop conditioning arrangements with Michigan Bell if it so chooses, as Michigan Bell itself acknowledges. Michigan Bell Chapman/Cottrell Reply Aff. at para. 35. We also note that Michigan Bell is exploring the possibility of developing an LSR ordering process for the removal of bridged taps less than 2,500 feet. Michigan Bell March 17 *Ex Parte* Letter, Attach. A at 18.

130. We also find that TDS Metrocom's criticisms of the creation of the Yellow Zone Process (YZP)<sup>450</sup> for ordering xDSL-capable loops do not warrant a finding of checklist noncompliance. TDS Metrocom claims that Michigan Bell did not provide adequate documentation when the YZP was introduced, and that the YZP was created by Michigan Bell outside of the Change Management Process or CLEC Users Forum.<sup>451</sup> As an initial matter, we note that the YZP process is optional and is provided by Michigan Bell in addition to its standard process for ordering xDSL-capable loops.<sup>452</sup> Further, this optional process was developed with input from any interested competitive LECs through their participation in voluntary trials.<sup>453</sup> TDS Metrocom thus remains free to use Michigan Bell's standard process for ordering xDSL-capable loops. Michigan Bell's addition of this optional alternative method of ordering xDSL-capable loops does not warrant a finding of checklist noncompliance.

131. We also reject MCI's criticism that Michigan Bell currently is unable to include UNE-P lines and lines served using a stand-alone port in the same "hunt group."<sup>454</sup> Under Michigan Bell's current processes, stand-alone ports are used in a line splitting arrangement.<sup>455</sup> Michigan Bell responds that its systems are not currently configured to include UNE-P lines and lines served using a stand-alone port in the same hunt group, and is not sure whether it is technically feasible to modify its systems to do so.<sup>456</sup> Michigan Bell states that MCI first expressed interest in such an arrangement in mid-June 2003, at which time it offered an alternative, currently available, arrangement to MCI involving the use of call forwarding.<sup>457</sup> Michigan Bell further states that if MCI is unsatisfied by this alternative, it is willing to work on alternative arrangements.<sup>458</sup> As the Commission has held in prior section 271 applications, BOCs need not have in place processes for all possible scenarios for line splitting at the time of its

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<sup>450</sup> Under the YZP, a competitive LEC performs a mechanized loop qualification and then submits an LSR for an xDSL-capable loop with a five-day due date or an LSR for a high-frequency portion of the loop (HFPL) UNE with a three-day due date. On the day after the due date, the competitive LEC may test the line to ensure it is working properly. If its tests are unsuccessful, the competitive LEC will submit a trouble ticket. If needed, the competitive LEC also may request loop conditioning at that time, to be performed within five additional business days. Michigan Bell Chapman Aff. at paras. 27-31.

<sup>451</sup> TDS Metrocom Cox Aff. at para. 26.

<sup>452</sup> Michigan Bell Chapman Aff. at paras. 27-31.

<sup>453</sup> Michigan Bell Chapman/Cottrell Reply Aff. at para. 29.

<sup>454</sup> MCI Supplemental Reply at 4; MCI Supplemental Comments at 10-11; MCI Supplemental Reply, Reply Declaration of Sherry Lichtenberg at para. 17 (MCI Lichtenberg Supplemental Reply Decl.). A hunt group is a series of telephone lines, and their associated telephone numbers and switch ports, which are organized so that if a call comes in to a line in the hunt group that is busy, the call will be passed to the next line in the hunt group until a free line is found. Michigan Bell July 30 *Ex Parte* Letter, Attach. at 1.

<sup>455</sup> Michigan Bell September 12 *Ex Parte* Letter at 7.

<sup>456</sup> Michigan Bell July 30 *Ex Parte* Letter, Attach. at 1.

<sup>457</sup> *Id.*

<sup>458</sup> *Id.*

application, where the BOC is working with competing LECs in a state collaborative to develop appropriate procedures.<sup>459</sup> Given that MCI only recently requested this feature and Michigan Bell appears to be working in good faith to accommodate MCI's request, we do not find that this warrants a finding of checklist noncompliance.

132. *Voice-Grade Loops, Digital Loops, Dark Fiber and Hot Cuts.* Based on the evidence in the record we find, as did the Michigan Commission,<sup>460</sup> that Michigan Bell demonstrates that it provides voice-grade loops,<sup>461</sup> digital loops,<sup>462</sup> dark fiber<sup>463</sup> and hot cuts<sup>464</sup> in

<sup>459</sup> See, e.g., *Verizon Massachusetts Order*, 16 FCC Rcd at 9090-92, paras. 180-81; see also *Line Sharing Reconsideration Order* at para. 22 n.41 ("We also encourage participants in state collaboratives and change management processes to develop specific ordering procedures associated with a variety" of line splitting scenarios.)

<sup>460</sup> Michigan Commission Comments at 84, 88-89, 93-95.

<sup>461</sup> See, e.g., PM 58-05 (Percent Ameritech-Caused Missed Due Dates; 8.0 dB Loops); PM 59-05 (Percent Trouble Reports Within 30 Days of Installation; 8.0 dB Loops); see also App. B. However, Michigan Bell also missed PM 55-01.1 (Average Installation Interval; UNE; 2 Wire Analog (1-10)) by a small amount in April and May 2003 (with installation intervals for competitive LECs exceeding the three-day benchmark by an average of 0.17 days for those months). We find the miss to be competitively insignificant and, at any rate, as discussed above, we accord the installation interval metrics little weight because results can be affected by a variety of factors outside the BOC's control that are unrelated to provisioning timeliness. See, e.g., *Qwest 9-State Order*, 17 FCC Rcd at 26402, para. 163; *BellSouth Florida/Tennessee Order*, 17 FCC Rcd at 25896-97, para. 136 & n.463; *Bell Atlantic New York Order*, 15 FCC Rcd at 4061, paras. 202-10.

Michigan Bell generally met the relevant parity or benchmark standard regarding maintenance and repair of voice grade loops. See, e.g., PM 66-04 (Percent Missed Repair Commitments; UNE; 2 Wire Analog 8 dB Loops); PM 67-05 (Mean Time to Restore (Hours); Dispatch; 8.0 dB Loops); PM 67-20 (Mean Time to Restore (Hours); No Dispatch; 8.0 dB Loops); PM 68-01 (Percent Out Of Service (OOS) < 24 Hours; 2 Wire Analog 8.0 dB Loops); PM 69-05 (Percent Repeat Reports; 8.0 dB Loops).

<sup>462</sup> See, e.g., PM 58-06 (Percent Ameritech-Caused Missed Due Dates: BRI Loops with Test Access); PM 58-08 (Percent Ameritech-Caused Missed Due Dates; DS1 Loops); PM 59-06 (Percent Trouble Reports Within 30 Days of Installation; BRI Loops with Test Access); PM 59-08 (Percent Trouble Reports Within 30 Days of Installation; DS1 Loops with Test Access); see also App. B. Michigan Bell missed PM 54.1-02 (Trouble Report Rate Net of Installations and Repeat Reports; Resold Specials; DS1) in February through April 2003. We note, however, that Michigan Bell's performance has been improving, with Michigan Bell achieving parity in May and June 2003. Michigan Bell also missed certain installation interval submetrics for several months. Michigan Bell missed PM 55-02.1 (Average Installation Interval; UNE; Digital (1-10) (days)) in February and May 2003 and missed PM 55-03 (Average Installation Interval; UNE; DS1 Loop (includes PRI) (days)). As discussed above, we accord the installation interval metrics little weight because results can be affected by a variety of factors outside the BOC's control that are unrelated to provisioning timeliness. See, e.g., *Qwest 9-State Order*, 17 FCC Rcd at 26402, para. 163; *BellSouth Florida/Tennessee Order*, 17 FCC Rcd at 25896-97, para. 136 & n.463; *Bell Atlantic New York Order*, 15 FCC Rcd at 4061, paras. 202-10. Instead we conclude that the missed due date metric is a more reliable indicator of provisioning timeliness.

Michigan Bell generally met the relevant parity or benchmark standard regarding maintenance and repair of digital loops. See, e.g., PM 65-06 (Trouble Report Rate; BRI Loops with Test Access); PM 65-08 (Trouble Report Rate; DS1 Loops with Test Access); PM 67-06 (Mean Time to Restore (Hours); Dispatch; BRI Loops with Test Access); PM 67-21 (Mean Time to Restore (Hours); No Dispatch; BRI Loops with Test Access); PM 69-06 (Percent Repeat Reports; BRI Loops with Test Access); PM 67-08 (Mean Time to Restore (Hours); Dispatch; DS1 Loops (continued....))

accordance with the requirements of checklist item 4. Our conclusion is further supported by the fact that commenters do not criticize Michigan Bell's performance in these areas.

133. *Line Sharing and Line Splitting.* Based on the evidence in the record, we find, as did the Michigan Commission, that Michigan Bell provides nondiscriminatory access to the high frequency portion of the loop (line sharing).<sup>465</sup> Michigan Bell had approximately 73,000 high frequency portion of the loop (HFPL) UNEs in service as of the end of 2002.<sup>466</sup> Michigan Bell's performance data for line shared loops demonstrate that it is generally in compliance with the parity and benchmark measures established in Michigan.<sup>467</sup>

134. Michigan Bell also provides access to network elements necessary for competing carriers to provide line splitting.<sup>468</sup> Michigan Bell demonstrates that it has a legal obligation to provide line splitting through nondiscriminatory rates, terms, and conditions in interconnection agreements and that it offers competing carriers the ability to order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and to combine it with unbundled switching and shared transport.<sup>469</sup> Michigan Bell provides line splitting carriers with access to the same pre-ordering capabilities as carriers that purchase unbundled DSL loops or line sharing, and has implemented OSS processes for line splitting.<sup>470</sup> In addition, the Michigan Commission required Michigan Bell to implement a compliance plan establishing procedures for migrations from line sharing to line splitting, line sharing to UNE-P, and UNE-P to line splitting.<sup>471</sup>

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with Test Access); PM 67-23 (Mean Time to Restore (Hours); No Dispatch; DS1 Loops with Test Access); PM 69-08 (Percent Repeat Reports; DS1 Loops with Test Access); *see also* App. B.

<sup>463</sup> Michigan Bell Deere Aff. at paras. 80, 94-100.

<sup>464</sup> *See* PM 114 (Percentage Premature Disconnects (Coordinated Cutovers); PM 114.1 (CHC/FDT LNP w/Loop Provisioning Interval); PM 115 (Percent Ameritech-Caused Delayed Coordinated Cutovers); *see also* Michigan Bell Brown/Muhs Aff. at paras. 18-20. Michigan Bell missed PM 114-01 (% Premature Disconnects (Coordinated Cutovers); FDT; LNP w/Loop) in March and April 2003. Michigan Bell responds that it prematurely disconnected just seven FDT conversions in March and ten FDT in April. Michigan Bell Ehr Supplemental Aff. at para. 137. We further note that Michigan Bell has met the benchmark in both May and June 2003.

<sup>465</sup> Michigan Commission Comments at 88; Michigan Commission Supplemental Comments at 9-10.

<sup>466</sup> Michigan Bell Chapman/Cottrell Reply Aff. at n.17.

<sup>467</sup> *See, e.g.,* PM 58-03 (Percent Ameritech-Caused Missed Due Dates; DSL; Line Sharing); PM 65-03 (Trouble Report Rate; DSL; Line Sharing); PM 66-03 (Percent Missed Repair Commitments; DSL; Line Sharing); PM 67-03 (Mean Time to Restore; Dispatch; DSL; Line Sharing); PM 67-18 (Mean Time to Restore; No Dispatch; DSL; Line Sharing); PM 69-03 (Percent Repeat (Trouble) Reports; DSL; Line Sharing); *see also* Appendix B.

<sup>468</sup> Michigan Bell Chapman Aff. at paras. 82-88.

<sup>469</sup> *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6348, para. 220.

<sup>470</sup> Michigan Bell Chapman Aff. at paras. 82-88; Michigan Bell Chapman/Cottrell Reply Aff. at paras. 3-18.

<sup>471</sup> Michigan Commission Comments at 88.

135. We reject AT&T's complaint of alleged shortcomings in BearingPoint's testing.<sup>472</sup> Michigan Bell states that although BearingPoint did not test the new single-order process for establishing line splitting, it did test the three individual service orders required to establish line splitting at that time.<sup>473</sup> Under the new single order process, Michigan Bell's internal systems generate those same three orders, which were reviewed by BearingPoint.<sup>474</sup> We conclude that the successful BearingPoint test provides evidence that we may consider in our overall evaluation of Michigan Bell's line splitting performance.

136. We also reject AT&T's argument that Michigan Bell failed to make the requisite showing regarding line splitting due to lack of commercial volumes of line splitting orders.<sup>475</sup> Michigan Bell states that it has performed more than 400 UNE-P to line splitting migration orders from competitive LECs in the SBC Midwest region.<sup>476</sup> Moreover, although Michigan Bell did not submit into the record commercial volumes of line splitting specifically in Michigan, commercial volumes are not necessary to make the required showing regarding line splitting.<sup>477</sup> We find instead, as we have in previous section 271 applications, that the terms and conditions of Michigan Bell's interconnection agreements and the successful BearingPoint testing satisfy Michigan Bell's required affirmative showing regarding line splitting.<sup>478</sup>

137. We reject the commenters' claims regarding allegedly discriminatory procedures for competitive LECs to discontinue a line splitting arrangement. Specifically, they note that when migrating from line splitting to UNE-P, Michigan Bell generally provisions a new loop, rather than reusing the existing loop.<sup>479</sup> The commenters argue that Michigan Bell's process

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<sup>472</sup> AT&T Comments at 51-52; AT&T DeYoung/Connolly Decl. at paras. 7-12.

<sup>473</sup> Michigan Bell Chapman/Cottrell Reply Aff. at para. 16.

<sup>474</sup> *Id.*

<sup>475</sup> AT&T Comments at 51-52; AT&T DeYoung/Connolly Decl. at paras. 7-12.

<sup>476</sup> Michigan Bell Supplemental Reply, Supplemental Reply Affidavit of Carol A. Chapman at para. 3 n.8 (Michigan Bell Chapman Supplemental Reply Aff.).

<sup>477</sup> BOCs have been able to make the required showing of checklist compliance regarding line splitting obligations in prior section 271 applications without showing commercial volumes. *See, e.g., SBC California Order*, 17 FCC Rcd at 25724-25, para. 132; *In The Matter of Application by SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization to Provide In-Region, InterLATA Services in Nevada*, WC Docket No. 03-10, Memorandum Opinion and Order, 18 FCC Rcd 7196, 7228, para. 65 (*SBC Nevada Order*).

<sup>478</sup> Michigan Bell Chapman Aff. at paras. 82-88; Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. at 3 (filed July 7, 2003) (Michigan Bell July 7 *Ex Parte* Letter). Several commenters raise concerns regarding Michigan Bell's processes and procedures relating to line splitting, which we discuss below.

<sup>479</sup> AT&T March 18 *Ex Parte* Letter at 2-3; AT&T March 18 *Ex Parte* Letter at 1-3; Letter from Alan C. Geolot, Counsel for AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-16 at 5-7 (filed Mar. 28, 2003) (AT&T March 28 *Ex Parte* Letter); Letter from Amy L. Alvarez, District Manager – Federal Government Affairs, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC (continued....)

could cause the customer to lose voice service for up to seven days, creates a risk that a facilities shortage could prevent reconnection, and results in increased non-recurring charges (NRCs).<sup>480</sup> Commenters also assert that if a customer wishes to discontinue xDSL service provided through line splitting, the voice competitive LEC must submit three orders to convert the unbundled xDSL-capable loop and switch port used for line splitting to a UNE-P arrangement to provide only voice service.<sup>481</sup> Commenters state that the only alternative to the three-order process is for the competitive LEC providing voice service to leave the loop in the former DSL provider's collocation cage, using a port on the Digital Subscriber Line Access Multiplexer (DSLAM).<sup>482</sup> The Department of Justice notes that these issues "merit the Commission's consideration."<sup>483</sup>

138. We conclude that the existence of these two policies do not warrant a finding of checklist noncompliance.<sup>484</sup> As the Commission has held in prior section 271 applications, BOCs need not have in place processes for all possible line splitting scenarios at the time of its application, where the BOC is working with competing LECs in a state collaborative to develop appropriate procedures.<sup>485</sup> We note that as a result of a request in the CLEC User Forum, Michigan Bell and MCI are testing a manual process that would permit the re-use of the xDSL-capable loop in the UNE-P on an interim basis, and Michigan Bell is committed to developing a longer-term solution that will address this issue in a manner that meets the needs of the broader competitive LEC community.<sup>486</sup> Thus, Michigan Bell is collaborating with competitive LECs to address this issue in Michigan. Given this collaboration, which was expressly contemplated by

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Docket No. 03-16, Attach. at 2 (filed Apr. 11, 2003) (AT&T April 11 *Ex Parte* Letter); AT&T Supplemental Comments at 12-15; MCI Supplemental Comments at 10-11; MCI Lichtenberg Supplemental Reply Decl. at paras. 14-16.

<sup>480</sup> *Id.*

<sup>481</sup> AT&T Comments at 53-54; AT&T DeYoung/Connolly Decl. at paras. 20-21; MCI Lichtenberg Supplemental Reply Decl. at para. 18.

<sup>482</sup> *Id.*

<sup>483</sup> Department of Justice Supplemental Evaluation at 11.

<sup>484</sup> *BellSouth Georgia/Louisiana Order*, 17 FCC Rcd at 9075, para. 114. ("[D]isputes that our rules have not yet addressed and that do not involve *per se* violations of the Act or our rules, are not appropriately dealt with in the context of a section 271 proceeding.")

<sup>485</sup> See, e.g., *Verizon Massachusetts Order*, 16 FCC Rcd at 9090-92, paras. 180-81.

<sup>486</sup> Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. at 2 (filed July 9, 2003) (Michigan Bell July 9 *Ex Parte* Letter); Michigan Bell July 7 *Ex Parte* Letter, Attach. at 6; Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138 at 3-4 (filed Aug. 21, 2003) (Michigan Bell August 21 *Ex Parte* Letter). Because Michigan Bell has not only made these commitments, but has begun to execute them, we find no reason in the record to agree with MCI that SBC will not actually make available to competitive LECs a solution that would permit the re-use of the xDSL-capable loop. MCI September 8 *Ex Parte* Letter at 3-4.

the Commission to address new line splitting scenarios,<sup>487</sup> and the fact that Michigan Bell commits to make available a manual process to meet competitors' needs during the pendency of such collaboration, we find that the competitive LECs' claims do not warrant a finding of checklist noncompliance.

139. Regarding Michigan Bell's three-order process, Michigan Bell states that the commenters misunderstand the options available to them.<sup>488</sup> The competitive LEC providing voice service has the option to submit a single LSR to Michigan Bell to convert the existing switch port used in a line splitting arrangement for use with a new UNE-P arrangement.<sup>489</sup> If it chooses, the competitive LEC can submit a second request to disconnect the remaining xDSL-capable loop that was used in the line-splitting arrangement.<sup>490</sup>

140. For the same reasons, we reject the commenters' claims regarding the inadequacy of Michigan Bell's procedures regarding certain other line splitting scenarios. As discussed above, we previously have held that BOCs need not have in place processes for all possible line splitting scenarios where the BOC is working with competing LECs in a state collaborative to develop appropriate procedures.<sup>491</sup> As discussed above, the Michigan Commission required Michigan Bell to establish procedures for migrations from line sharing to line splitting, line sharing to UNE-P, and UNE-P to line splitting.<sup>492</sup> AT&T expresses concern about other line

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<sup>487</sup> *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, 16 FCC Rcd 2101, 2111-12, para. 21 (2001) (*Line Sharing Reconsideration Order*).

<sup>488</sup> Michigan Bell Chapman/Cottrell Reply Aff. at paras. 7-10 & n.14.

<sup>489</sup> Michigan Bell Chapman/Cottrell Reply Aff. at para. 9; Michigan Bell Chapman Supplemental Reply Aff. at paras. 21-28. We also reject commenters' assertion that Michigan Bell's single order process for converting from line splitting to UNE-P is "unworkable" because it is manually handled. AT&T March 19 *Ex Parte* Letter at para. 10; MCI Supplemental Reply at 5. As discussed above, collaborative processes currently are ongoing in Michigan to address the procedures for these line splitting scenarios. Michigan Bell Chapman/Cottrell Reply Aff. at para. 14 & n.13; Michigan Commission Comments at 88; Michigan Commission Reply, Attach. at 11; Department of Justice Evaluation at 14; Michigan Bell March 24 *Ex Parte* Letter at 1-3. Consistent with our decisions in prior section 271 proceedings, where such state collaboratives are developing particular line splitting processes, the fact that such processes are not complete at the time of the application, standing alone, does not warrant a finding of checklist noncompliance. See, e.g., *Verizon Massachusetts Order*, 16 FCC Rcd at 9091-92, paras. 180-81 ("[T]he *Line Sharing Reconsideration Order* does not require [a BOC] to have implemented an electronic OSS functionality to permit line splitting. Rather, the Commission's *Line Sharing Reconsideration Order* recognizes that a state-sponsored xDSL collaborative is the appropriate place for [BOCs] to evaluate how best to develop this functionality.").

<sup>490</sup> *Id.*

<sup>491</sup> See, e.g., *Verizon Massachusetts Order*, 16 FCC Rcd at 9090-92, paras. 180-81.

<sup>492</sup> Michigan Commission Comments at 88.

splitting scenarios, including possible problems with errors in the ordering documentation provided by Michigan Bell identified during a test by AT&T.<sup>493</sup> MCI complains about alleged discrimination in the process that applies when a line splitting customer migrates to a new competitive LEC or to Michigan Bell.<sup>494</sup> Because collaborative processes, under the supervision of the Michigan Commission, are ongoing in Michigan to address these issues and because there is little evidence establishing a discriminatory affect, we are not persuaded that Michigan Bell is not in compliance with its obligations under this checklist item.<sup>495</sup>

141. We likewise find that the specific, isolated instances of line splitting problems experienced by MCI do not warrant a finding of checklist noncompliance. MCI reports that in eight of 212 instances where customers have migrating from UNE-P to line splitting in the SBC Midwest region, the customers have lost dial tone for several days, and MCI had difficulty reporting the troubles when the loss of dial tone occurred.<sup>496</sup> Indeed, Michigan Bell shows that six of the eight instances of loss of dial tone reported by MCI were due to MCI errors in completing the LSRs, and that Michigan Bell worked quickly to restore service within an average of two days.<sup>497</sup> Michigan Bell states that it has also implemented internal procedures to help it identify such competitive LEC-caused problems in advance.<sup>498</sup> Michigan Bell also states that MCI did not follow the correct process when seeking to report the troubles.<sup>499</sup> Since these outages occurred, Michigan Bell shows that it has successfully processed more than 400 UNE-P

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<sup>493</sup> AT&T March 28 *Ex Parte* Letter at 3-5; AT&T April 11 *Ex Parte* Letter, Attach.; AT&T Supplemental Reply at 6. Michigan Bell responds that although it initially identified certain errors in its documentation when AT&T initially experienced problems, its line splitting processes were corrected on March 20, 2003. Michigan Bell March 24 *Ex Parte* Letter, Attach. at 6-7.

<sup>494</sup> Specifically, MCI states that when Michigan Bell wins back a line splitting customer, it leaves the xDSL-capable loop in place without informing the competitive LEC of the need to have that loop disconnected. MCI Lichtenberg Supplemental Reply Decl. at para. 40. In contrast, according to MCI, if a competitive LEC wins a line sharing customer from Michigan Bell, the customer is required to ask his or her xDSL provider to cancel service prior to the migration. MCI Lichtenberg Supplemental Reply Decl. at para. 41. Michigan Bell states that MCI misunderstands its processes. First, when Michigan Bell wins back a line splitting customer, it sends the competitive LEC a line loss notifier (LLN) that contains different information than is included in an ordinary UNE-P LLN. Michigan Bell July 30 *Ex Parte* Letter, Attach. at 2. According to Michigan Bell, this LLN includes information not ordinarily included on UNE-P LLNs, which allows the competitive LEC to identify that it relates to a line splitting customer, indicating that the competitive carrier must determine whether to disconnect the loop. *Id.* Second, line sharing customers are not required to call their xDSL providers to cancel service prior to migrating to a competitive LEC. *Id.* The competitive LEC can submit LSRs that disconnect the xDSL service and migrate the voice service to UNE-P. *Id.*

<sup>495</sup> Michigan Bell Chapman/Cottrell Reply Aff. at para. 14 & n.13; Michigan Commission Comments at 88; Michigan Commission Reply, Attach. at 11; Department of Justice Evaluation at 14.

<sup>496</sup> MCI Supplemental Comments at 22-23; MCI Lichtenberg Supplemental Reply Decl. at paras. 15-16.

<sup>497</sup> Michigan Bell July 7 *Ex Parte* Letter at 3-4.

<sup>498</sup> *Id.*; Michigan Bell Chapman Supplemental Reply Aff. at para. 5.

<sup>499</sup> Michigan Bell July 7 *Ex Parte* Letter at 3-4; Michigan Bell Chapman Supplemental Reply Aff. at para. 4.

to line splitting conversions in the SBC Midwest region without similar problems.<sup>500</sup> Based on the evidence submitted by Michigan Bell establishing the isolated nature of the problems, we conclude that the limited problems experienced by MCI in the early stages of deployment do not demonstrate that Michigan Bell's existing line splitting processes and procedures are inadequate.

142. We reject commenters' challenges to Michigan Bell's NRCs associated with certain line-splitting process.<sup>501</sup> First, Michigan Bell shows that there is no difference between the NRCs associated with establishing a UNE-P when migrating back from line splitting than are imposed when establishing a new UNE-P in the first instance.<sup>502</sup> Second, these charges have been approved by the Michigan Commission.<sup>503</sup> Third, if there is no change in the splitter, only a \$0.35 NRC applies.<sup>504</sup> If there is a change in the splitter, the higher NRCs compensate Michigan Bell for the central office work required by the change.<sup>505</sup> We thus find that Michigan Bell has adequately justified these charges.

143. Finally, we reject commenters' argument that Michigan Bell's ordering policy creates complications that deny competitive LECs the opportunity to engage in line splitting arrangements with other carriers. Specifically, commenters note that Michigan Bell requires competitive LECs that engage in line splitting to use the same EDI software version.<sup>506</sup> For example, if a voice competitive LEC has migrated to the most recent version of EDI and its partner data competitive LEC submits a line splitting order to Michigan Bell using the voice competitive LEC's Operating Company Number (OCN), the data competitive LEC must submit the order using the same version of EDI that the voice competitive LEC utilizes or the order will be rejected.<sup>507</sup> We find that the record reflects that the parties are actively negotiating on this

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<sup>500</sup> Michigan Bell Chapman Supplemental Reply Aff. at para. 3 n.8.

<sup>501</sup> DeYoung/Connolly Supp. Decl. at para. 12; MCI Lichtenberg Supplemental Decl. at paras. 59, 66.

<sup>502</sup> Michigan Bell March 24 *Ex Parte* Letter, Attach. at 7-9.

<sup>503</sup> Specifically, all of the individual prices have been approved by the Michigan Commission. *Id.*; Michigan Bell Chapman Supplemental Reply Aff. at para. 31. In addition, in a filing with the Michigan Commission, Michigan Bell described these charges in the context of certain line splitting scenarios, including line sharing to line splitting and UNE-P to line splitting scenarios where the data provider remains the same. Michigan Bell Application, App. C, Tab 126, SBC Ameritech Michigan's Amended Compliance Plan As Required by October 3, 2002 Opinion and Order (filed Dec. 11, 2002). The Michigan Commission found that implementation of that plan would allow Michigan Bell "to satisfy its line splitting obligations." Michigan Commission Comments at 88; *see also* Michigan Bell Application, App. C, Tab 134, Opinion and Order, MPSC Case No. U-12320 (Jan. 13, 2003) (approving the pricing in Michigan Bell's Amended Compliance Plan).

<sup>504</sup> Michigan Bell March 24 *Ex Parte* Letter, Attach. at 7-9; Michigan Bell Chapman Supplemental Reply Aff. at para. 31.

<sup>505</sup> *Id.*

<sup>506</sup> AT&T Comments at 21-22; AT&T Supplemental Comments at 16; MCI Supplemental Comments at 12.

<sup>507</sup> AT&T Comments at 22. AT&T states that Michigan Bell characterizes the problem as an operational issue between AT&T and the other "data" competitive LEC. AT&T DeYoung/Willard Decl. at para. 156.

issue through the collaborative state process discussed above.<sup>508</sup> In particular, Michigan Bell states that it has identified an alternative involving a previously unused LSR field that could address the commenters' concerns.<sup>509</sup> Accordingly, we do not find that this issue rises to the level of checklist noncompliance. We expect that Michigan Bell will continue to work closely with carriers engaging in line splitting through the state collaborative or carrier-to-carrier negotiations to resolve this and any additional operational issues.

**D. Checklist Item 7 – Access to 911/E911 and Operator Services/Directory Assistance**

**1. Access to 911/E911**

144. Section 271(c)(2)(B)(vii) of the Act requires a BOC to provide “[n]ondiscriminatory access to 911 and E911 services.”<sup>510</sup> A BOC must provide competitors with access to its 911 and E911 services in the same manner that it provides such access to itself, *i.e.*, at parity.<sup>511</sup> Specifically, the BOC “must maintain the 911 database entries for competing LECs with the same accuracy and reliability that it maintains the database entries for its own customers.”<sup>512</sup> We find, as did the Michigan commission,<sup>513</sup> that Michigan Bell provides nondiscriminatory access to 911 and E911 services.<sup>514</sup>

145. We reject the argument, raised by AT&T and MCI, that Michigan Bell’s policies regarding population of the E911 database violate the competitive checklist. On June 20, 2003, SBC delivered to all competitive LECs within its entire 13-state region an accessible letter offering “clarification” of its E911 policies (June 20 Accessible Letter). The letter addressed “those instances in which a CLEC(s) [sic] wishes to engage in line splitting by reusing facilities previously used as part of a UNE-P or line shared arrangement.”<sup>515</sup>

146. In the June 20 Accessible Letter, SBC indicated that it would retain end-user

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<sup>508</sup> For example, AT&T describes one negotiation where Michigan Bell’s proposed to accommodate AT&T’s request for basing versioning on Purchase Order Numbers (PONs), rather than OCNs, in return for relieving Michigan Bell of certain versioning requirements. AT&T DeYoung/Willard Decl. at paras. 153-54 (citing Accessible Letter No. CLECALLS02-111, dated September 19, 2002).

<sup>509</sup> Michigan Bell July 7 *Ex Parte* Letter, Attach. at 1-2 & Exh.

<sup>510</sup> 47 U.S.C. § 271(c)(2)(B)(vii).

<sup>511</sup> *Qwest 3-State Order*, 18 FCC Rcd at 7389, para. 109.

<sup>512</sup> *Id.* (citing *Ameritech Michigan Order*, 12 FCC Rcd at 20679, para. 256).

<sup>513</sup> Michigan Commission Comments at 111.

<sup>514</sup> See Michigan Bell Ehr Aff. at paras. 169-73; Michigan Bell Ehr Supplemental Aff. at paras. 147-51.

<sup>515</sup> Letter from Geoffrey M. Klineberg, Counsel to Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. at 1 (filed July 8, 2003) (Michigan Bell July 8 *Ex Parte* Letter).

information upon the transition from UNE-P or line sharing to line splitting, but explained that because “[t]he CLEC may physically rearrange or disconnect the UNEs used in the original line splitting arrangement ... without [SBC] having any knowledge or information as to the change in service,” it was “the responsibility of the CLEC to ensure the 911/E911 database accurately reflects its end-user customer’s information” after the transition.<sup>516</sup> SBC followed the June 20 Accessible Letter with a July 15 accessible letter, delivered only to competitive LECs within the five-state SBC Midwest Region (July 15 Accessible Letter).<sup>517</sup> This second letter further clarified SBC’s policy, explaining that the June 20 Accessible Letter “was intended solely to address a potential situation in which a CLEC initially engages in line-splitting by reusing facilities previously used as part of a UNE-P or line-shared arrangement, but subsequently physically rearranges the UNE loop and switch port within the CLEC’s collocation arrangement (or that of its partnering CLEC).”<sup>518</sup> The July 15 letter also made clear that the policy applied only in cases involving a change in “the customer’s physical service address,” and emphasized that “SBC Midwest 5-State remains responsible for implementing MSAG changes” – that is, changes of general applicability, such as modifications of a town name, a street name, or the directional rules governing a street.<sup>519</sup>

147. We do not believe that the policy, as clarified, constitutes discriminatory provision of 911 or E911 services in violation of checklist item 7.<sup>520</sup> Michigan Bell explains that “the CLEC is in physical control of the loop and the switch port once those have been provided to the CLEC’s collocation space, and because the CLEC has the ability to disconnect and rearrange the original combination, Michigan Bell cannot be responsible for changes made without its knowledge.”<sup>521</sup> AT&T argues, however, that a competitive LEC would not make such changes, for fear of service interruptions.<sup>522</sup> Given the crucial importance of 911 database accuracy and its role in protecting public safety, we find what matters is not whether such action by a competitive LEC is likely, but whether it is possible. We are persuaded that competitive LECs could change

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<sup>516</sup> *Id.*

<sup>517</sup> Letter from Geoffrey M. Klineberg, Counsel for Michigan Bell, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-138, Attach. (filed July 15, 2003) (Michigan Bell July 15 *Ex Parte* Letter).

<sup>518</sup> *Id.*

<sup>519</sup> *Id.*; see also Michigan Bell Valentine Supplemental Reply Aff. at para. 22.

<sup>520</sup> Nor do we believe that the activity about which AT&T and MCI complain violates checklist item 10. See, e.g., AT&T Supplemental Comments at 18. Irrespective of whether that checklist item is relevant to a BOC’s purported failure to provide nondiscriminatory access to 911 and E911, checklist item 10 does not set forth requirements with respect to 911 and E911 services that are distinct from the obligations imposed by checklist item 7. Therefore, because we conclude that Michigan Bell satisfies checklist item 7, we also conclude that it satisfies checklist item 10 with respect to any obligations that item might impose regarding the provision of 911 and E911.

<sup>521</sup> Michigan Bell Valentine Supplemental Reply Aff. at paras. 9, 19-20.

<sup>522</sup> AT&T Supplemental Comments at 21.